Table of Contents

EXECUTIVE SUMMARY p.i

SUMMARY OF RECOMMENDATIONS p.xiii

I. INTRODUCTORY REMARKS

1. The Importance of Transportation to Manitoba p.1
2. The Validity of the Philosophy of the Current NTA. p.3

II. TRANSPORT INDUSTRY PERFORMANCE IN THE NEW LEGISLATIVE ENVIRONMENT p.4

1. Air Transport Industry p.6
2. Motor Vehicle Transport Industry p.12
   a. Truck Transport
   b. Bus Transport
3. Rail Transport Industry p.14

III. CURRENT ISSUES

1. Motor Vehicle Transport Issues
   a. Public Need and Convenience Tests for Entry p.16
   b. Economic Component of Fitness Entry Test p.17
   c. Transport Broker Regulation p.19
   d. Owner-operator Issues p.21
   e. Survey and Publication of Cost Information p.25
   f. Uniformity of Regulations p.25
   g. Infrastructure p.26

2. Air Transportation Issues
   a. Survival of National Canadian Carrier(s) p.28
   b. Economic Regulation of Northern Zone (Designated Area) p.31
   c. Servicing Low Volume Domestic Routes p.32

3. Railway Transportation Issues
   a. Competitive Access to Railway Transportation p.32
      i. Continuation of Competitive Line Rates
      ii. Interswitching Limits
      iii. Confidential Contracts
   b. Compensatory Rate Requirement p.36
   c. Branch Line Rationalization Process p.37

4. Accessible Services For Persons With Disabilities p.40

5. Consequences for Regional Economic Development p.44

IV. CANADIAN TRANSPORTATION INTO THE 21ST CENTURY p.46
1. Transformation into a Continental Market.
2. Linkages with Related Initiatives p.49

SUBMISSION OF THE PROVINCE OF MANITOBA
TO THE NATIONAL TRANSPORTATION ACT REVIEW COMMISSION
(National Transportation Act)
(Motor Vehicle Transportation Act)

EXECUTIVE SUMMARY

I. INTRODUCTORY REMARKS - The Importance of Transportation to Manitoba

- The transportation industry, employing approximately 25,100 Manitobans, is extremely important to Manitoba.

- The evolution of Manitoba's transportation system governed the pace of the province's economic development: (water transport - the fur trade) (the railway network - the agriculture, forestry and mining industries)

- Manitoba is also an exporter of transportation services providing an estimated 10,600 jobs to Manitoba's economic base in 1989.

- Tourism, which is a growing industry, depends on safe convenient, inexpensive transport to bring travellers to Manitoba.

- A developed and effective transportation sector with an efficient and safe infrastructure provides access to the full range of goods and services for Manitoba residents. Manitoba's transport infrastructure must be upgraded, maintained at acceptable standards and expanded as required to enhance development, tourism, safety, access, and employment.

II. TRANSPORT INDUSTRY PERFORMANCE IN THE NEW LEGISLATIVE ENVIRONMENT

- Section (266) (3a) of the National Transportation Act asks the Commission to consider the overall effectiveness of the policy and Acts (now under review) in achieving an economic, efficient and adequate network of viable and effective transportation services that are responsive to the needs of shippers and travellers with a minimum of government intervention.

- the transport industry's adjustment to the new environment is not over and has been complicated by the current recession.

1. Air Transport Industry

- Deregulation has changed ownership of Canada's air carriers and caused very heavy transition costs.

* Air Canada is no longer a government owned crown corporation used as an instrument of public policy but a shareholder owned public corporation; Pacific Western Airlines has consolidated CP Air, Wardair and two other regional airlines into Canadian

Airlines International.

* Both airlines have had to discharge thousands of employees in recent years after growing by 10 percent from 1984 to 1989 as a result of mistaken optimism.

- In 1987, Manitoba expressed our concerns about the consequences of deregulating the airline industry. We also expressed our concerns for the loss of employment for the airline employees and the consequences for their families. The failure to provide appropriate adjustment programs in place as originally proposed is unacceptable.

2. Motor Vehicle Transport Industry

A. Truck Transport:

- The Canadian economic experience since 1988 is similar to the American one with a general recession following the deregulation of the truck transport industry. Deregulation of the American trucking industry was followed by the 1981-2 recession and the trucking industry experienced massive disruption with many firm failures and increased unemployment. The subsequent recovery saw greater concentration in the less than truckload sector of the industry

- The Motor Vehicle Transport Act 1987 (MVTA) relaxes entry control by provincial transport boards affecting extraprovincial carriers in Canada for a transition period until January 1, 1993 during which the provincial boards hold hearings on granting new applications if opposition to new applications exists. Existing motor carriers must prove that the new operation would likely be detrimental to the public interest (reverse onus).

- Afterwards the legislation only requires a safety and insurance fitness test unless the federal Cabinet extends the transition period by proclamation.

- Manitoba maintained the transition period throughout the five years allowed because the transition period was necessary.

B. Bus Transport:

- Manitoba continues to regulate bus transport services using the public need and convenience test as well as applying rate regulation.

3. Railroad Transport Industry

- Railways provide a vital role in the movement of bulk goods to and from Manitoba

- We are very concerned about the decline in railway employment

- Since Winnipeg, is the second largest railroad centre in Canada, and declining railroad industry employment has a severe structural impact on our provincial economy.

- In northern Manitoba, the CN rail line is important to the mining and forestry industries; for access to the Port of Churchill for grain exports, for transporting the large and heavy equipment used in existing and future hydroelectric facilities; as the only surface mode of transport for freight and passenger service for many small communities.

- The rail line and the Port of Churchill also provide essential resupply service for communities in the Keewatin District. Future resource developments in Canada's north are also reliant on Churchill and the rail line.

- The Russians have expressed interest in expanding import and export trade through Churchill and negotiations are currently in progress.

- Negotiations are also in progress for re-activating the rocket range at Churchill as well as for establishing a national park in the region. These initiatives will result in an increased demand for rail service.

- Accordingly, the rail line and the port must be retained and upgraded.

III. CURRENT ISSUES

1. Motor Vehicle Transport Issues

A. <u>Strengthening the Fitness Entry Test:</u>

- Manitoba seeks an extension of the reverse onus provisions until the fitness test is strengthened with a business ability component.

- The financial viability of established carriers can be jeopardized by those new entrants who lack appropriate business acumen underpricing their services and engaging in poor or unethical business practices.

- A new entrant should be required to provide evidence of business skills training that meets prescribed standards.

- A new entrant should also be required to demonstrate financial responsibility.

- Consequences of instability in trucking were demonstrated by owner-operator protests and blockades in 1990 and 1991

which caused millions of dollars of lost production time. Regulations and policies must be implemented to avoid future service disruptions.

B. Transport Broker Regulation:

- The current lack of regulatory recognition of the role of the transport broker in Canada's national transportation system is a serious deficiency.

- Transport brokers perform a valuable service that, in some respects, is virtually indistinguishable from much of what is performed by the motor carrier.

- The transport brokers, also pressed by the competition among carriers for traffic, transferred the burden of reduced revenues to carriers and owner operators.

- Industry participants have reported instances of unscrupulous or irresponsible transport brokers failing to fulfil their fundamental obligations contributing to insolvency for carriers.

- The Commission should review the issue to consider the merits of establishing uniform transport broker regulation including:

  - mandatory registration of load brokers;
  - required contributions to an industry claims fund, or bonding;
  - payment trust requirements;
  - liability for proper administration of trust accounts;
  - record keeping requirements;
  - disclosure of records of a transaction to the parties; and
  - powers to cancel registrations for breaches of requirements.

C. Owner-operator Issues:

- Owner-operators provide transport services without obtaining operating authorities required under existing legislation for motor carriers by contracting their services to motor carriers who obtain the required licence plates for their vehicles and provide them with work under the motor carriers' operating authorities.

- It is alleged motor carriers transferred the burden of the intensive rate competition generated by the current recession and liberalization of entry into the extraprovincial market onto the owner-operators using

their leverage in controlling the distribution of licence plates to the owner operators. In 1991, the Canadian Council of Motor Transport Administrators' (CCMTA) Special Task Force documented 28 specific complaints regarding this transfer of the cost burden.

- The CCMTA Task Force received submissions indicating that relations between carriers and operators are often characterized by disagreements on numerous issues, a general lack of trust and high turnover rates.

- Pressures are mounting to introduce measures to ensure that authorized carriers behave in a financially responsible manner towards their contracted owner-operators in the current regulatory environment.

- The Commission should examine this problem to determine the need for introducing regulations to correct this problem including:

  - Licensing owner-operators as independent contractors with the ability to operate as subcontractors for any number of carriers, the authority being issued on proof of fitness including business ability and safety components.

- The federal government would ensure the reciprocal recognition by all jurisdictions of a contractor's operating authority from any jurisdiction to provide uniform application of the policy as well as flexibility and administrative simplicity.

- That the model standards developed by the CCMTA Task Force be prescribed by federal regulation for all extra-provincial truck undertakings.

D. <u>Survey and Publication of Cost Information:</u>

- We urge the Commission to recommend that the National Transportation Agency conduct and publish annual surveys of motor carrier costs, in order that small carriers and owner-operators can set compensatory rates for their services.

E. <u>Uniformity of Regulations:</u>

- Federal legislation governing extraprovincial trucking should include mechanisms for establishing federal standards that apply nationally when provincial jurisdictions are unable to agree on common rules.

F. **Infrastructure:**

- Canada's highway infrastructure is aging and the road authorities responsible for its maintenance and repair require more funds to retain its serviceability.

- While the provinces have primary responsibility for the highway network, the federal government receives billions of dollars in motive fuel tax revenue, but spends only a small fraction of that on roads.

- In the period 1983-87, the federal government collected $11.2 billion in motive fuel tax revenues and spent $1.2 billion on road related expenditures.

- During the same period, the provinces and territories collected approximately $18.4 billion in road related revenues including motive fuel tax revenues, licence and registration fees and tolls and spent $23.2 billion on road related expenditures.

- Manitoba has promoted the establishment of a national highways policy. While highway transportation is very important to the economy of most industrial countries, Canada appears to be the exception in not having national policies for the provision and maintenance of essential highways.

- The First Ministers Conference in March, 1992 considered a proposal on the technical and administrative matters involved in the development of a National Highways Policy. Manitoba urges your Commission to incorporate the proposal into your report and recommend the adoption of the national highways program by the federal government. The National Transportation Act should be amended to define the federal national highways policy and legislate a federal mandate for the national infrastructure renewal program.

2. Air Transportation Issues

A. **Survival of National Canadian Carrier(s):**

- Over the last seven years under the stimulus of liberalization and competition, a series of mergers, takeovers and consolidations in Canada's airline industry created a duopoly of two mainline carriers similar to that existing prior to liberalization: Air Canada and Canadian Airlines International Limited.

- The financial difficulties of Air Canada and Canadian

Airlines, coupled with the current and prospective international industry environment, suggest that the existing structure of the Canadian airline industry may be non-viable and unsustainable.

- One proposed solution is the merger of the two Canadian airlines. Air Canada and other supporters of this "Canadian solution" assume that the merger would create economies of firm size and of traffic density that would reduce unit costs for the new airline, and make it more competitive. The merger of the two Canadian airlines would result in many duplicate jobs that would require elimination.

- An alliance of each with a foreign airline is another possible solution. These joint ownership ventures create the mega-carriers whose reach extends to larger portions of the world.

- Such an alliance with an American carrier could provide an infusion of new equity, new links to the American domestic market with fewer transfers, efficient integrated baggage handling, shared ground services at airports, shared computer reservation systems, and the Canadian carrier could benefit when it comes to purchasing new equipment.

- Manitoba has a standing policy not to favour one carrier over another, but to support continuation or expansion of services to all Manitoba communities at reasonable fare levels. Manitoba also wishes to see carriers remain financially viable and maintain employment opportunities in Manitoba. Manitoba is indifferent to the solution chosen as long as services to Manitoba communities and employment opportunities will not deteriorate as a consequence.

- Manitoba would be concerned if a Canadian carrier, after an alliance with an American carrier, concentrated their efforts in expanding into established markets on major transborder and overseas routes and reduced their commitment to serve the smaller domestic Canadian markets.

- Manitoba would also be concerned if a single merged Canadian carrier abused its monopoly position to impose excessive rates on Manitoba routes to extract higher profits. Manitoba believes that regulatory controls would be required if a single national airline operated in Canada. The National Transportation Agency should then regulate the airline's rate of return on profit and invested capital.

B. Economic Regulation of Northern Zone (Designated Area):

- Manitoba favours retaining the current regulatory regime that applies to the designated area where communities generate light volumes of traffic. An economic need exists to limit entry to ensure existing carriers have sufficient traffic to remain viable.

3. Railway Transportation Issues

A. Competitive Access to Railway Transportation:

- Prior to 1988, shippers wanting to negotiate rates dealt with a railroad monopoly because Canadian railroads were permitted to collaborate in setting rates between common origins and destinations. The 1987 Act eliminated the railroads' immunity from federal anti-collusion legislation and undertook to encourage competition between railroads operating in Canada through four new measures:

(1) Final Offer Arbitration:

- Manitoba supports retention of final offer arbitration because it can end a deadlock in rate negotiations between the railroads and shippers by providing a process to reach a settlement.

(2) Extended Interswitching Limits:

- Manitoba recommended the introduction of extended interswitching limits and continues to support its application.

(3) Competitive Line Rates:

- The 1987 Act provides rate protection for a shipper with an origin or destination on one railway's lines located beyond the thirty kilometre limit from an interchange with another railroad's line. Manitoba recommended the introduction of competitive line rates and believes it has been successful in providing shippers with better leverage in rate negotiations. Manitoba favours retaining the availability of competitive line rates.

(4) Confidential Contracts:

- The 1987 Act replaced the requirement for the filing and publication of rates negotiated between rail carriers and shippers with the requirement to file the contract whose terms are confidential to the parties with the Agency.

- Shippers have identified confidential contracts as a very important tool in obtaining competitive terms for their rail transport needs. The railroads are also very pleased with the confidential contract provision.

- The advantages of the confidential contract remain with shippers who can ship large volumes of goods on a regular schedule. We continue to have concerns that small shippers may be disadvantaged by confidential contracts. We urge your Commission to investigate or recommend that the Agency investigate this.

B. Compensatory Rate Requirement:

- The present Act requires a railroad to charge freight rates that cover the railroad's variable costs or expenses attributable to a specific movement. This prevents a railroad from engaging in predatory competition in which it undercuts rates offered by competitors to drive them out of a specific market.

- Manitoba advocated the use of rates below variable costs as temporary developmental rates so that the railroads could attract new traffic and develop new markets. The current legislation allows the railroads to set temporary developmental rates, but only if the Agency allows them to stand by not ordering their elimination. To support rates for developmental purposes, Manitoba must intervene on behalf of the railroad and shipper. Sections of the 1987 Act (112 and 113) should be amended to allow the rate to stand even if non-compensatory if it is established the rates are for developmental purposes.

C. Branch Line Rationalization Process:

- Legislation governing branch line abandonment should recognize that branch lines are essential feeder arteries to the main line rail system and are essential to export access.

- Manitoba has opposed past rail line abandonments because the federal government, responsible for railroads, would not offer compensation programs to offset the negative impacts of abandonment.

- Manitoba recognizes the need for rail rationalization throughout Canada to reduce rail costs so that shippers can be offered competitive freight rates.

- Manitoba initiated the concept of a responsible rail rationalization proposal. The four Western Provinces have

refined and expanded it into a comprehensive package. Manitoba asks that your Commission recommend that the principles of this proposal be introduced into the National Transportation Act and federal transportation policy.

- A national rail system must be first identified before a major program of abandonment is initiated lest Canada's essential rail network is indiscriminately abandoned.

4. Accessible Services For Persons With Disabilities

- Manitoba supports initiatives to meet the needs of travellers with disabilities by making it an integral part of national transportation policy.

- The federal government has also referred the proposals contained in the document entitled Legislative Reform For People Wi' h Disabilities ... Proposals For Change... prepared by the Canadian Disability Rights Council for the Commission's consideration. While Manitoba supports increased accessibility for persons with disabilities as evidenced by our above actions, we are concerned by the inflexibility of the Council's recommended amendments.

- Increased accessibility of persons with disabilities to all modes of transportation can be achieved with provincial and industry cooperation, not by a federal agency forcing provinces and the transportation industry to provide services regardless of cost or expected usage of the facilities and equipment by the target population.

- The Agency, federal government, and Province must have discretion to determine the level and extent of actions to reduce barriers to access.

5. Consequences for Regional Economic Development

- Manitoba affirms its belief that transportation is an important tool of public policy to promote economic development. The development of Manitoba will continue to be linked to the development of the transportation industry.

- Transport costs, like international trade tariffs, can be effective barriers to increased trade between Manitoba, and the rest of Canada and the world. The lowering of existing tariff barriers through the Canada-United States Trade Agreement, the North America Free Trade Agreement and the General Agreement on Tariffs and Trade, will make transportation rates a more important factor in international

trade.

- Manitoba's leading role in the removal of institutional barriers to interprovincial trade will also make transportation rates a more important factor in international trade.

- Sections 58 and 59 of the National Transportation Act should be amended to permit provincial governments or agencies with responsibilities for economic development to request that the Agency investigate negative consequences for the public interest involving rates and conditions of carriage.

IV. CANADIAN TRANSPORTATION INTO THE 21ST CENTURY

1. Transformation into a Continental Market

- The Canada United States Free Trade Agreement (CUSTA) is transforming the two national markets into a single continental market as American and Canadian businesses reorganize their production and distribution systems to operate in a continental market.

- Motor carriers are also reorganizing their operations to serve a continental market. These carriers prefer a U.S. presence partly because of more generous capital depreciation allowances in the U.S. tax system as well as existing U.S. customs and immigration laws.

- CNR and C.P. Rail have each integrated its Canadian railway system with that of its American subsidiaries to form a North American network linking Canada and the north central and eastern industrial states. They are introducing new services and investing in new infrastructure to provide competitive intermodal container and piggyback trailer services for the international market.

- Both Canadian and American shippers use continental rail networks to access North American or overseas markets using the most cost efficient and effective means and routing possible. The networks not only include railroads with lines in both countries, but also intermodal movements with trucks crossing the international border to reach railhead.

2. Linkages with Related Initiatives

- Manitoba is concerned that federal initiatives affecting transportation in Canada are compartmentalized and their impacts are being assessed independently. Your report should identify these initiatives and describe their progress, and

interrelationships and implications for national transportation policy and legislation.

- These include:

  - Agriculture Canada's process to reform agricultural transportation policies including the method of paying the federal government commitment under the Western Grain Transportation Act, the minimum compensatory rates for canola oil, and the feed freight assistance program.

  - The Royal Commission on Passenger Transportation into the 20th Century.

  - The Council of Ministers Responsible for Transportation and Highway Safety's work to define a national highway network and a new national highway policy through the Transportation Association of Canada (TAC).

  - The federal and provincial governments, and the railroads are working under the auspices of TAC to define a national rail network.

  - The federal government plans to initiate a Royal Commission on Freight Transportation into the 20th Century.

  - Further, the Transport Committee of Parliament has initiated two inquiries: one dealing with ports, and one dealing with the Great Lakes St. Lawrence Seaway.

SUMMARY OF RECOMMENDATIONS TO THE NATIONAL TRANSPORTATION ACT REVIEW COMMISSION

MOTOR VEHICLE TRANSPORTATION

1. The fitness test for motor carriers should be widened to include an economic component to demonstrate business skills and financial responsibility.

2. The reverse onus provisions of the MVTA should be retained until the economic component is assured.

3. The need for regulation of load brokers should be considered with provision for uniform standards nationally.

4. The need of owner-operators for legal status through national legislation with contract standards should be examined.

5. The National Transportation Agency should survey and publish information on truck transportation costs in order that small carriers can set rates that are compensatory and thus provide industry stability.

6. The federal government should legislate, establish and contribute funding to a national highways program.

7. The current public need and convenience test for bus transportation should be maintained.

AIR TRANSPORTATION

1. The federal government should retain the current system of regulating air transport in the designated area of northern Canada.

2. The federal government should find a solution to the financial crisis in Canada's national airlines that maintains industry viability, adequate service levels for the maximum number of communities, reasonable airfares, and employment at acceptable levels. This requires the development of a detailed national air transport policy; the provinces should have an opportunity to participate in the development of this policy.

RAIL TRANSPORTATION

1. The final offer arbitration provisions should be retained in the National Transportation Act.

2. The extended interswitching limits provisions should be retained within the legislation.

3. The competitive line rate provisions should be retained with the legislation.

4. The confidential contract provisions should be retained but the National Transportation Agency should investigate whether small shippers are systematically penalized by an inability to obtain reduced rates.

5. The principles of the western provinces' responsible rail rationalization proposal should be incorporated into both the National Transportation Act and any other legislation pertaining to branch line abandonment.

6. Guidelines should be established for the provinces to provide for uniform and compatible provincial short line rail legislation as well as harmonization with federal legislation.

7. The federal government should publish a detailed information guide for potential short line investors to insure complete awareness of the many diversified issues to consider in acquiring track and operating a railway.

8. All direct and indirect costs must be considered in evaluating service alternatives to conventional branch line operations, employing uniform costing methodology. Some of the savings arising from abandonment should be used to provide compensation for increased road costs.

9. Caution must be exercised in authorizing the sale, disposal or abandonment of rail lines prior to the identification of a national rail network. Lines that may eventually be identified as being a strategic component to the core network must not be lost.

OTHER MATTERS

1. While Manitoba supports increasing access for persons with disabilities, the National Transportation Act should not eliminate the discretion given to the National Transportation Agency and federal government in actions to increase access.

2. Cooperation in achieving increased access should be preferred to coercion and legislation should recognize the extra costs that may be placed upon the carriers.

3. The federal government should work with the provinces in the systematic planning of Canada's transportation needs on an ongoing basis to ensure the optimum deployment of scarce resources for maximum effect.

4. Sections 58 and 59 of the National Transportation Act should be amended to permit provincial governments or agencies with responsibilities for economic development to request that the Agency investigate negative consequences for the public interest involving rates and conditions of carriage.

SUBMISSION OF THE PROVINCE OF MANITOBA
TO THE NATIONAL TRANSPORTATION ACT REVIEW COMMISSION
(National Transportation Act)
(Motor Vehicle Transportation Act)

I. INTRODUCTORY REMARKS

1. The Importance of Transportation to Manitoba

Manitoba is extremely dependent on transport services. Manitoba's population of 1,094,400 and its resource base cannot support a self-sustaining economy so this province must rely on traded goods and services with other regions. However, the long distances to major North American centres are a barrier to trade and higher incomes. In overcoming this barrier, the Manitoba transportation industry became both a necessary support industry to all goods exporting sectors in the economy and an exporter of transportation services. The transportation industry employs approximately 25,100 Manitobans.

Since highways are under provincial jurisdiction, the increased reliance on the road system has resulted in an ever increasing burden on the provinces to facilitate the movement of goods and people. Difficulties have been encountered in extracting revenues from the system sufficient to sustain and improve it. The reason for this is the extensive federal levies applied to road users with little returned to the road network. Continuing increases in federal levies have restricted the ability of provinces to raise user fees necessary to the maintenance of the essential road network.

The evolution of Manitoba's transportation system governed the pace of the province's economic development. While water transport on the few navigable rivers served the rudimentary economy based on the fur trade, the introduction of the railway network created the opportunity for the development of the agricultural industry in southern Manitoba and the forestry and mining industry in northern Manitoba. Manitoba's central location and the national railroads' choice of Winnipeg as a terminal led to Winnipeg's development as a financial, commercial and warehousing centre for Western Canada. Later, provincial construction of roads

increasingly enabled truckers to capture local traffic moved by rail, and automobile owners to increase their personal travel. The construction of the TransCanada Highway enabled trucking companies to provide competitive national transportation services that replaced the railroads as the primary transporters of freight as measured by freight revenues. Further development of the provincial highway network in conjunction with the TransCanada Highway provided motor carriers and travellers with greater opportunities for business and pleasure transportation.

The interrelationship between the development of transportation and other key sectors in Manitoba also made Manitoba an exporter of transportation services. Because Winnipeg was a key terminal for both national railroads in the early part of the 20th century, administration, and maintenance and repair functions developed here. Its central location was an advantage to local trucking firms establishing national networks in the 1950's and seven of Canada's major national motor carriers have corporate headquarters here. Air Canada was also attracted to Winnipeg's central location and established administration, reservations and maintenance functions here. Consequently, Manitoba has proportionally more economic activity in the transportation industry than most other provinces. The export component of the transportation services sector in 1989 provided an estimated 10,600 jobs to Manitoba's economic base.

Tourism, which is a growing industry, depends on convenient, inexpensive transport to bring travellers to Manitoba. The public highway system provides the least expensive means of transport for tourists. The tourists who come to Manitoba are a source of additional demand for both traded and non-traded goods and services in Manitoba. Manitoba received 2.6 million visitors in 1990; Manitobans travelling within Manitoba accounted for 5.5 million tourist-trips. Tourist spending in Manitoba amounted to $999 million dollars in 1990.

A developed and effective transportation sector with an efficient and safe infrastructure provides access to the full range of goods and

services for Manitoba residents. Manitoba's transport infrastructure must be upgraded, maintained at acceptable standards and expanded as required to enhance development, tourism, safety, access, and employment.

2. **The Validity of the Philosophy of the Current NTA.**

The 1987 National Transportation Act is based on the view that:

- Canada's transportation industry no longer requires the government economic regulation that existed in previous decades because the industry and its markets have matured.

- individual carriers can survive adverse economic conditions, and intermodal and intramodal competition among carriers protects users from excessive rates and assures them of quality service.

- the degree of regulation, prior to 1988, stifled innovation within the industry and was too costly.

In Freedom To Move, the Government of Canada stated six principles upon which the 1987 Act would be based:

1. Less regulation, leading to less government interference, will encourage innovation and enterprise.

2. Greater reliance on competition and market forces will result in lower unit costs, more competitive prices, and a wider range of services to shippers and the public.

3. Inflexible, restrictive regulation is an obstacle to growth, innovation, and competitiveness.

4. Canadians require a regulatory process that is open, accessible, and not excessively costly or time consuming.

5. Government should provide direct support to those transportation services that, though not economically viable, are deemed to be in the public interest. In this regard, users should also bear their fair share of costs.

6. Measures should be taken to assist those who might suffer severe economic dislocation under a new regulatory regime.

Only some of these principles were captured in the National Transportation Act 1987. The first principle is enacted in Section 3(c); the second principle is enacted in Section 3(b); and the fifth principle is enacted in Section 3(f) (See Appendix A). Specific items elsewhere in the legislation are tools to achieve the broader purposes of the legislation.

The 1987 Act ignores the sixth principle and excludes any authority to take measures to assist those suffering economic dislocation under the new regulatory regime. The transition from one economic environment to another has had economic and social costs and these have not been properly addressed.

The third principle is a truism with which no one would disagree. The fourth principle is directed to how well the National Transportation Agency carries out its mandate, but it also assumes that the regulations are commensurate with the stated objectives. This is not the case in some instances.

II. TRANSPORT INDUSTRY PERFORMANCE IN THE NEW LEGISLATIVE ENVIRONMENT

Section (266) (3a) of the National Transportation Act asks the Commission to consider the overall effectiveness of the policy and Acts (now under review) in achieving an economic, efficient and adequate network of viable and effective transportation services that are responsive to the needs of shippers and travellers with a minimum of government intervention. The Act required the Commission to do this

five years after its proclamation. This assumed that the transportation industry would have completed the transition from the previous regulatory environment to the current one earlier than now. The Commission would then be examining the industry as it would continue to operate in the new environment. Moreover, the statistical data documenting and describing how the industry functions under the new regulatory regime is not complete. Therefore, the Commission must be cautious in its evaluation of the current situation.

An economy or industry adjusting to a changed institutional environment incurs transition costs which include the premature write-down of capital assets and the displacement of workers through unemployment. Losses of value in capital assets may never be recovered. Unemployed workers may not find alternative employment without retraining or they may not find alternative employment at all resulting in a premature write-off of their acquired skills. The impact of the change is not simply the difference between the before situation and the end result of the adjustment, but it is also the consequence of the turbulent and potentially destructive dynamics of change.

In 1990, the Canadian economy entered the current recession. While the recession complicates the assessment of the impact of the new Act which must be distinguished from the impact of the recession, it also tests more stringently the overall effectiveness of the new regulatory regime in achieving the policy goals stated in the Act. In a recession, shippers need an economically efficient and adequate network of transportation services to minimize their distribution costs to maintain sales when demand has fallen. Travellers also need access to an adequate and low cost transportation system as the recession limits their financial ability to travel. Transport firms must be viable in order to deliver services that meet the requirements of their customers. Survival of transport firms and their customers means that the transport firms must be capable of changing the nature of the services offered to best suit their customers under the stress of the crisis.

1. Air Transport Industry

Government policy direction to the Canadian Transport Commission (CTC) in 1984 relaxing the regulation of the air transport industry preceded the 1987 Act, but its passage confirmed the current regulatory regime.

The key elements of Canada's system of airline regulation as it existed in the late 1970's and early 1980's included control over access to routes, regulation of conditions of service, fares, geographical areas of service and control over mergers. Under The Aeronautics Act, the Air Transport Committee of the CTC was required not to grant an authority to initiate an air service unless it could be demonstrated that the new carrier's services were required by "present and future public convenience and necessity" (PCN). The burden of proof to establish this need was on the applicant carrier. Existing carriers were licensed on a route by route basis and the same PCN test applied to route applications. Frequency of service, the size of the aircraft, any intermediate stops on specific routes, fares and discounts and conditions attached to them were regulated. Geographic areas within which regional carriers may provide service were specified. The CTC controlled mergers in the industry and had to determine if a proposed merger would "lessen competition unduly".

Under the 1987 Act, Canadian air carriers were subjected to two distinct regulatory regimes based on the location of the points they served. In the designated area, markets of northern and remote communities are regarded as "fragile" and carriers are still subject to controls over entry, fares, and other terms and conditions of service. The previous requirement for entry to air service in northern and remote areas based on a test of PCN was replaced by the condition that the new service will not "significantly decrease or destabilize existing air services in the area". Existing carriers must demonstrate that negative consequences will result. The National Transportation Agency may still subject licences to conditions related to such matters as the type of service, the size of aircraft and the points served. Service may be discontinued provided 120 days notice of that intention is given.

In the rest of the country which contains 95 percent of Canada's population, there is almost complete deregulation. A carrier has the freedom to enter any market provided that it has Canadian nationality and demonstrates that it is "fit, willing and able to provide the service". Specifically, this requires proof of adequate insurance, a safety certificate from Transport Canada and 75 percent Canadian ownership. The effects of the entry of a new airline on carriers already serving a route are no longer relevant.

Airlines can leave a domestic route with only 120 days advance public notice of their intention. There is no control over rates in southern Canada, confidential contracts are permitted, and air carriers are not required to file tariffs with the Agency. However, the Agency will review, upon complaint, increases in basic passenger fares on monopoly routes in southern Canada.

The regulation of international air services remains unchanged under the new legislation. Market entry and exit are still controlled through bilateral negotiations between Canada and foreign countries. Air fares are still subject to regulatory approval.

In 1982, six carriers provided scheduled jet services. The largest and predominant national carrier, Air Canada, controlled over 50 percent of the air market and the next largest, Canadian Pacific Airlines, had approximately 24 percent of the market. The government assigned Air Canada the following international markets: the United Kingdom, most of the United States, most of Europe and the Caribbean. Canadian Pacific was assigned the Pacific Rim countries, Latin America, and Asia. CP Air also served Amsterdam, and some points in southern Europe.

The remaining carriers were small regional carriers, three of which were partially owned directly or indirectly by provincial or federal governments. These were allowed to operate on reserved and specified local and regional routes only to supplement, but not directly compete with the domestic mainline operations of Air Canada and CP Air and to provide scheduled service into the North.

The relaxation of the federal regulations on the airline industry prompted the regional carrier, Pacific Western Airlines, and the charter carrier, Wardair, to become national carriers. After CP Air initially acquired two other regional carriers, PWA purchased CP Air to establish itself as a national carrier now called Canadian Airlines International Limited (CAIL). However, the expansion led to air fare cuts and declining revenues as the carriers struggled for market share. A subsequent decline in air travel created losses for the three national carriers. Wardair became bankrupt and was acquired by CAIL. Although CAIL consolidated itself as a national carrier, the additional debt absorbed by the acquisition of Wardair financially weakened it.

Air Canada continues to be the dominant national carrier, but it is now privatized. CAIL is the second and only other national carrier. The regional carriers have been replaced by feeder carriers with ownership links to these two carriers. Air Canada feeders include Air B.C., Air Ontario, Air Alliance, Air Nova, Air Toronto, First Air and Northwest Territorial. CAIL feeders include Time Air, Calm Air, Ontario Express and Air Atlantic. The two major trunk carriers own between 35 percent and 100 percent of these carriers. The majority of the feeders were smaller carriers who moved into the status of regional carriers. The feeders provide connecting flights to communities not served by the two national carriers. The two national carriers transferred to their feeders specific routes which were unprofitable for the national carriers to operate, but profitable for the smaller carriers to serve. This result is similar to the experience in the United States.

On the surface, the structure of the airline industry appears not to have changed substantially, yet deregulation has brought about a change in ownership as well as very heavy transition costs to Canada's air carriers.

Air Canada has been transformed from a government owned crown corporation used as an instrument of public policy in a regulated environment to a shareholder owned public corporation. The company has acknowledged that as a Crown Corporation, it had become economically inefficient through overstaffing. The company discharged approximately

2000 employees in 1991 and will discharge another 1800 in 1992 to restructure itself to be competitive as a private carrier. The company also wrote off assets prematurely before the original investment had been recovered. However, Air Canada has not achieved financial stability as an air carrier. The current recession is an immediate factor and its adjustment from a crown corporation to a private one may not be complete. In addition, Air Canada and some industry observers believe Canada's domestic market may be too small to sustain two national airlines in a deregulated environment, and the carrier must compete in a deregulated global economy.

The dynamics of change unleashed by deregulation of the air industry is illustrated by the development of CAIL. CP Air was the much smaller national carrier in 1984. In 1987, seeking to expand its role, it acquired Eastern Provincial and Nordair, the regional carriers in Atlantic Canada and Quebec. Fare and service competition intensified as it struggled to take market share from Air Canada. However, the acquisition generated financial problems and CP Air was sold to the financially stronger, but smaller, Pacific Western Airlines owned partially by the Alberta government. The company chose a new name Canadian Airlines International Limited. During the same period, Wardair expanded to become the third national carrier. Wardair acquired new aircraft and established new routes. Wardair assumed too much debt attempting to achieve this unviable option and its owners were forced to sell the company to CAIL after heavy losses in the struggle for market share with Air Canada and CAIL.

Employment in the Level I carriers grew by 10 percent from 1984 to 1989 as these events occurred. The industry is now contracting severely as a correction of the earlier mistaken optimism.

The data summarized in the table on page 11 measure the level of service provided in various city pair markets in terms of weekly scheduled flights and seats available. The Agency report provided the information on flights and seats; Manitoba staff calculated the seats per flight ratios. The table compares 1983, the year prior to the liberalization

of the air industry, and the years of the liberalized environment from 1987 to 1991. Data for four regions of Canada are listed, and then the column with the totals of the four regions following. The last column shows the data for the top 25 city pair markets in the ccuntry.

Service levels increased substantially in all markets in 1987 and 1988, and then declined reflecting initial industry expansion and then contraction. Despite the recession, service levels are higher in 1991 than in 1983 everywhere except in the Western Provinces. The report does not explain which western provinces are negatively affected nor why. The seats per flight data illustrate the shift to smaller aircraft which occurs in all city pair markets, but most dramatically in the regional markets in southern Canada.

The Agency also reported that the share of seats available from smaller carriers affiliated with Air Canada and CAIL increased while the independent carriers and the two national airlines decreased their shares. Route transfers from the national carriers to their affiliates might explain part of the latter's gains. The revenue loss might be low since the affiliates feed traffic from these routes to the national carriers.

WEEKLY SCHEDULED FLIGHTS AND SEATS IN CANADIAN REGIONAL MARKETS
THIRD QUARTER DATA

Year	Atlantic Provinces	Ontario, Quebec	Western Provinces	Northern Remote	Regional Total	Top 25 City Pairs
City Pairs	13	16	22	60	111	
			Flights			
1983	368	667	753	501	2,289	3,386
1987	852	1,495	1,368	895	4,610	5,594
1988	1,002	1,544	1,487	1,032	5,065	6,188
1989	1,169	1,600	1,495	1,109	5.373	6,286
1990	1,025	1,752	1,517	1,161	5,455	5,845
1991	1,049	1,723	1,481	1,055	5,308	4,953
			Seats			
1983	32,474	57,014	77,758	46,016	213,262	467,735
1987	45,444	75,714	92,083	57,892	271,133	604,292
1988	48,244	74,577	93,658	65,674	282,153	743,013
1989	52,319	67,830	85,051	71,338	276,538	698,550
1990	48,070	64,054	81,992	72,628	266,744	619,550
1991	45,624	60,079	68,000	70,616	244,319	562,030
			Seats Per Flight			
1983	88.2	85.5	103.3	91.8	93.2	138.1
1987	53.3	50.6	67.3	64.7	58.8	108.0
1988	48.1	48.3	63.0	63.6	55.7	120.1
1989	44.8	42.4	56.9	64.3	51.5	111.1
1990	46.9	36.6	54.0	62.6	48.9	106.0
1991	43.5	34.9	45.9	66.9	46.0	113.5

Source: National Transportation Agency of Canada, Air Services, Staff Report To the National Transportation Act Review Commission, May 1992.

The Agency report provides other information. While economy fares in southern Canada increased faster than the consumer price index, the changes in discount fares were erratic. The availability and use of discount fares increased after 1987 symptomatic of the increased competition of the period. Routes in Canada served by two or more carriers increased from 16.6 percent in 1983 to an average of 27.8 percent between 1988 and 1991.

In 1987, Manitoba had expressed our concerns about the consequences of deregulating the airline industry. While we supported reliance upon competition in a mature market, we were and are concerned about service to small and remote communities. The airlines serving rural and northern Manitoba centres have substituted small propeller aircraft for jet service. This decline in service is a consequence of the economic difficulties experienced by the airlines in recent years.

We also expressed our concerns for the loss of employment for the airline employees and the consequences for their families. The failure to provide appropriate adjustment programs in place as originally proposed is unacceptable.

2. **Motor Vehicle Transport Industry**

a. **Truck Transport**: Relaxation of the regulation of the extraprovincial trucking industry also preceded the actual passage of the 1987 Act. Following deregulation of the American interstate trucking industry, Canadian carriers expanded their operations in the United States. American carriers and the United States government then demanded similar relaxation of Canadian regulations. Domestic shippers favoured relaxed regulations to achieve lower freight rates and better service. Prior to 1987, the federal and provincial governments agreed on a number of measures to ease regulatory restrictions. Provincial boards increased the number of commodities that could be transported regionally exempt from regulation.

The federal Motor Vehicle Transport Act 1987 (MVTA) established the legal framework to relax the regulation of entry control by provincial transport boards affecting extraprovincial carriers in Canada. Prior to passage of the MVTA, new entrants into the industry had to prove their service met a public need or enhanced public convenience at transport board hearings. The federal government initially proposed that only a market fitness test apply, e.g., the applicant had appropriate insurance, financing, and perhaps demonstrated business ability.

However, Manitoba and some other provinces were concerned about the American experience. Deregulation of the American trucking industry was followed by the 1981-2 recession and the trucking industry experienced massive disruption with many firm failures and increased unemployment. The subsequent recovery saw greater concentration in the less than truckload sector of the industry.

The provinces and industry persuaded the federal government to introduce a transition period within the MVTA during which the provincial boards would hold hearings on the appropriateness of granting new applications if there was opposition to new applications. The MVTA requires existing motor carriers to prove that the applicant's proposed operation would likely be detrimental to the public interest (reverse onus). The transition period is effective until January 1, 1993. Afterwards the legislation only requires a safety and insurance fitness test. The legislation permits the federal Cabinet to extend the operation of the reverse onus provisions by proclamation.

The transition period was necessary. In seeking a more competitive environment, the federal government envisioned a restructured industry with more carriers having lower costs competing for existing traffic. The institutional changes to reach this more competitive economic environment produced significant economic costs. The owners of trucking businesses suffered a decrease in the value of their capital assets and trucking employees lost their jobs. The owners needed time to find more productive alternative uses for their assets and unemployed workers needed time to find alternative employment.

Manitoba maintained the transition period throughout the five years allowed. Other provinces varied the practical application of the new legislation. Some provinces such as British Columbia, New Brunswick, and Saskatchewan followed more restrictive procedures in implementing the MVTA for less than truckload carriers, while Ontario, Quebec, and Alberta interpreted the passage of the MVTA to allow for ease of entry into the industry that approached the fitness test.

The Canadian economic experience since 1988 is similar to the American one with a general recession following the relaxation of the regulation of the truck transport industry.

b. **Bus Transport**: Manitoba continues to regulate bus transport services using the public need and convenience test as well as applying rate regulation. Manitoba applies these to ensure the provision of reasonably priced bus services to many small rural communities. These services are not economically viable, but excess revenues made on more lucrative runs currently provide the bus companies with an internal subsidy. Elimination of entry control over bus companies could result in competitive services on the lucrative runs which would eliminate the excess revenues used to cover the costs of non-profitable routes. Many small communities could lose their bus service.

3. Railroad Transport Industry

Manitoba is served by three freight railroads, Canadian Pacific Railway Ltd., Canadian National Railways, and Burlington Northern Ltd. The Canadian carriers provide both national and international freight service while the American carrier provides international freight service. Via Rail provides passenger service using the rail lines of the national carriers. The 1987 Act intended to encourage intramodal competition among the railroads as well as intermodal competition between the railroads and the truck transport industry. Previously, the two national railroads were able to set rates jointly so shippers faced monopoly pricing. Manitoba welcomed the legislation encouraging rate competition between the national carriers. These will be discussed in detail below. The number of major railroads serving Manitoba is unchanged since 1987 and this is unlikely to change unless CN and CP should eventually be consolidated.

We are very concerned about the decline in railway employment since 1987. Manitoba, particularly, Winnipeg, has been a major railroad centre in Canada, and declining railroad industry employment has a

severe structural impact on our provincial economy. The decline in employment is a consequence of the railroads' increased exposure to intermodal competition. The railroads have had to reduce staff and abandon lines to cut costs in order to become more competitive in selling transport services. The decline in employment is illustrated in the following table.

The decline in employment means a decrease in provincial income and wealth in current years as well as lost career opportunities and serious personal and family disruption for Manitobans in the long-term.

RAILROAD EMPLOYMENT IN CANADA AND MANITOBA

	CANADA			MANITOBA		
YEAR	CN	CP	VIA RAIL	CN	CP	VIA RAIL
1987	50,862	24,294	7,066	N/A	3,177	N/A
1988	43,933	23,606	6,900	6,200	2,869	580
1990	39,091	21,735	4,500	5,500	2,747	N/A
1991	36,196	21,552	4,500	5,200	2,701	390

In northern Manitoba, the rail line is important to mining development and operations as well as the forestry industry. The rail line also provides access to the Port of Churchill for grain exports currently. The majority of the freight for the marine resupply of communities in the Northwest Territories via the Port of Churchill is transported over the rail line. For Manitoba Hydro, the railway is critical for transporting the large and heavy equipment used in constructing and operating the hydroelectric developments. Manitoba Hydro advises that the removal of northern rail service would place existing and future hydro facilities and energy supply at risk. Manitoba's concerns regarding the Port of Churchill are detailed in Appendix B.

In Manitoba's north, many small communities have only CN's railway as

the surface mode of transport for both freight transport and VIA Rail passenger service. Federal government policy and legislation must be flexible enough to recognize our unique regional needs.

We note that the National Transportation Agency annual surveys of shippers have found that shippers are pleased with the new measures to increase rate competition between the carriers. We also note that proportionally more shippers tend to be more dissatisfied with rail service than with truck transport service.

III. CURRENT ISSUES

1. Motor Vehicle Transport Issues

a. Public Need and Convenience Tests for Entry: The current MVTA allows provincial transport boards to apply a reverse onus test for entry control over the extraprovincial trucking industry only when an interested party objects to an application for an operating authority. The MVTA sunsets the subsections applying to this test on January 1, 1993. The federal Cabinet may extend the period during which these tests apply. Manitoba seeks an extension of reverse onus provisions until the fitness test is strengthened as discussed below.

Manitoba maintained the reverse onus test for the full five years to provide a period of adjustment from the old regulatory environment. We supported the trucking industry's need for adjusting to the new regulatory regime. Transport Canada submitted a report to Parliament in June, 1992, reviewing the operation and effect of the reverse onus test. This report concluded that the extension of reverse onus would not have an appreciable effect on service levels or carrier operations.

The Government of Manitoba has taken the lead role among provincial governments as a proponent of reducing trade barriers among the provinces. Increased trade of goods and services among the provinces will stimulate economic growth and lead to transportation productivity improvements that will enhance Canada's international competitiveness. The Manitoba government retained the Manitoba Transport Institute to

conduct a study of the effect of further licensing of extraprovincial trucking operations. The Transport Institute found that the general perception is that "deregulation" has had positive effects on motor carrier services to shippers.

b. **Economic Component of Fitness Entry Test**: The financial viability of established carriers can be jeopardized by new entrants who lack appropriate business acumen. They offer their services at rates which are below cost in order to attract new business. They operate at a loss until they go bankrupt and exit the industry. In the meantime, the established carriers lose the traffic that makes the difference between profit and loss.

The Canadian Council of Motor Transport Administrators (CCMTA) has expressly deferred the question of the need for an economic component of the fitness entry test to the Review Commission.

An economic component of the fitness entry test would lessen the general instability in the trucking industry that arises due to unsophisticated or irresponsible operators under-pricing their services and engaging in poor or unethical business practices. This economic component should have two essential criteria.

First, a new entrant should be required to provide evidence of business skills training that meets prescribed standards. Experienced operators could be exempt on a case by case basis where their prior service record demonstrates equivalent skill and knowledge.

Second, a new entrant should be required to demonstrate financial responsibility. Bonding should be required, as evidence of basic financial responsibility, on the basis that carriers commonly engage in brokering and interlining, and hold substantial funds owed to other carriers and owner-operators. Historical financial irresponsibility should be a bar to entry.

Legislative provisions in this regard should parallel those proposed by CCMTA in respect of transport brokers discussed below. For example, an applicant should be denied a licence if "the applicant cannot reasonably be expected to be financially responsible in the conduct of an extraprovincial truck undertaking, having regard to the applicant's financial position", and if "the past conduct of the applicant affords reasonable grounds for belief that the applicant will not carry on an extraprovincial truck undertaking in accordance with law and with integrity and honesty".

An economic component of the fitness entry test should not be viewed as a return to the public convenience and necessity entry test. The test would be administrative in nature: existing carriers would not have the right to oppose an application. Existing carriers would only be called upon to provide evidence if that evidence would contribute to the accuracy of the decision making process, in cases where there are reasonable grounds to question the right of the applicant carrier to hold a licence. Adding an economic component to the fitness entry test would not impair the level of competition to the detriment of the public. Knowledgeable and responsible operators would be entitled to be licensed as of right; entry by such operators would remain easy. Such an entry test is fundamentally different than the historical PCN test, and would represent a responsible balance between a wide open, cut-throat "law of the jungle" marketplace, and overly restrictive, command and control "public utility-type" regulation.

The consequences of instability in the trucking sector have been clearly demonstrated with owner-operator protests and blockades in 1990 and 1991. Millions of dollars of lost production time was incurred as a result of these disruptions, and Canada's reputation as a nation with a stable transportation system able to supply industry with a reliable and consistent service was damaged. The Canadian economy can ill-afford a repetition of such events.

The economy remains in a severe recession and the effects of that

recession on the Canadian trucking industry should not be exacerbated by minimum entry controls. The average return on equity for Manitoba based carriers has diminished 33% over the four year period since 1987, compared to the average over the four years prior to 1988; our trucking industry's operating ratio was 99% in 1991, indicating borderline viability at best. The financial performance of Manitoba carriers' has historically been lower than the average for Canadian carriers as a whole, and this trend has continued through the transition period. The return on equity of the Manitoba based industry for 1991 is estimated at 3.0%, less than one half that for the Canadian industry.

While Manitoba's central location in the east-west Canadian domestic market is advantageous, Manitoba based carriers are not well positioned to take advantage of the growth in the north-south trade. With a stagnant or diminished domestic market, Manitoba carriers are thus more vulnerable than other carriers to the effects of the minimal fitness test that would remain if the reverse onus provisions expire on January 1, 1993, without further action.

The reverse onus provisions form a "regulatory safety net" that can be used to lessen the effect of the recession on the trucking industry. Their extension until an economic component of the fitness test is introduced will bridge the recession and prevent further disruption of the trucking industry. The trucking industry is highly competitive at this time; temporary continuation of the reverse onus test would not impose a significant cost to the Canadian economy.

c. Transport Broker Regulation: Transport brokers sell, negotiate or arrange transportation to be provided by carriers, and commonly act as financial intermediaries between carriers and shippers. The current lack of regulatory recognition of the role of the transport broker in Canada's national transportation system is a serious deficiency.

Transport brokers perform a valuable service that, in some respects, is virtually indistinguishable from much of what is performed by the motor

carrier. Indeed, for many transactions the only difference is that the broker is simply not in direct control of the operation of the truck on the highway.

The transport brokers, also pressed by the competition among carriers for traffic, transfer the burden of reduced revenues to carriers and owner operators.

Industry participants have reported instances of unscrupulous or irresponsible transport brokers absconding with funds owed carriers, obtaining excessive remuneration by deceiving carriers respecting the actual amount of freight charges received, refusing to provide shipping documents to substantiate their invoices, and otherwise failing to fulfil their fundamental obligations. This activity has contributed to hardships for carriers, including insolvency, and destabilization of the industry. The precise extent of the problem cannot be quantified, but the industry perception is a significant problem in itself.

The CCMTA has developed model transport broker legislation and regulations to address these problems. However, some jurisdictions will not be adopting any form of regulation, while others may only be adopting some aspects.

Without national uniformity, problems of jurisdiction shopping, lack of effective enforcement, and increased complexity will result.

As a transport broker arranges transportation to be performed by an extraprovincial truck undertaking, it is an undertaking under federal constitutional authority because it extends beyond the boundary of a province. Indeed, it is precisely this inter-jurisdictional aspect that makes any non-reciprocated provincial regulatory scheme potentially unenforceable.

On this basis, we urge the Commission to recommend that the MVTA be amended to provide for a system of nationally uniform transport broker

regulation, substantially similar to that proposed in the CCMTA model. This should include:

- mandatory registration of load brokers;
- required contributions to an industry claims fund, or bonding;
- payment trust requirements;
- liability for proper administration of trust accounts;
- record keeping requirements;
- disclosure of records of a transaction to the parties; and
- powers to cancel registrations for breaches of requirements.

d. **Owner-operator Issues**: Owner operators are independent truckers who provide transport services without obtaining the operating authorities required under federal and provincial legislation for motor carriers. An owner-operator can be a single individual with a tractor trailer unit or an owner of more than one vehicle (some individuals in Manitoba own between twenty and thirty vehicles). They operate by contracting their services to motor carriers who obtain the required licence plates for their vehicles and provide them with work under the motor carriers' operating authorities. The motor carriers obtain the licence plates for the owner operators through the modification of administrative rules. The owner operators' ability to create a significant segment of the motor transport industry demonstrates that reality and the legislated regulatory environment of the pre-1988 period did not coincide.

The ability of owner operators to provide transport services without operating authorities provides some benefits to participants in the motor transport industry. The owner operators do not incur the expenses associated with obtaining an operating authority; the motor carriers can vary the size of their truck fleets with changes in traffic at a minimum cost; and governments avoid the costs of total control of all for-hire trucking activity including administration of the entry process and strict enforcement of the legislation. However, the current system has its costs particularly in a period of recession.

Many motor carriers have transferred the burden of the intensive rate competition generated by the current recession and liberalization of entry into the extraprovincial market onto the owner-operator segment of the industry. In 1991, the CCMTA Special Task Force documented 28 specific complaints regarding this transfer of the cost burden. Using their leverage in controlling the distribution of licence plates to the owner operators, they reduced the rates per kilometre paid, raised various administrative charges previously levied and added new charges. Some motor carriers also held back payments by shippers for their own use. Owner operators complained that they received no interest for the carriers' use of these funds. Where carriers became bankrupt, the withheld funds were lost to the owner operators. These actions harmed other legitimate and responsible carriers.

The consequence of this shifting of the burden of the recession onto the owner operators led to a series of owner-operator strikes in 1990 and 1991 which included blockage of international highways in Ontario and British Columbia. Competition and rate-cutting was most intense in the transborder market with both Canadian and American carriers struggling to gain or just maintain market share. New measures to ensure that authorized carriers behave in a financially responsible manner towards their contracted owner-operators in the current regulatory environment are necessary.

The National Transportation Act and national transportation policies should facilitate the resolution of the owner-operator issues identified by the Canadian Council of Transport Administrators. The federal government should act to ensure that the solutions to the issues are implemented uniformly across the provinces.

As stated above, most jurisdictions require owner-operators to operate under the operating authority of a carrier and to register their vehicles in the name of the carrier. These administrative requirements tie the owner-operator to a single carrier, increase the dependency of the owner-operator on the carrier, and weaken the owner operators'

bargaining position in negotiating a contract for its services. The requirements, instituted to conform the previous economic entry control regime to reality, are no longer necessary. Owner operators seek to be licensed in their own right and seek the flexibility to move freely between carriers as true contractors.

The National Transportation Act and the Motor Vehicle Transport Act (MVTA) should explicitly recognize the owner-operator segment of the industry as independent contractors with the right to apply for an extraprovincial operating authority as a subcontractor. The authority would be issued on proof of fitness including safety and business training components. The terms of the operating authority would permit operation as a subcontractor for any number of carriers, but would not permit operation for more than one carrier on any particular trip.

Owner-operators who choose to operate under a subcontractor's authority would assume increased safety and administrative responsibilities as a vehicle registrant, including National Safety Code requirements and Canadian Agreement on Vehicle Registration and taxation mileage reporting. Carriers with whom owner-operators subcontract would remain responsible to their respective shippers under the contract of carriage, and thus would retain sole responsibility for cargo insurance.

The federal government should ensure that reciprocal recognition by all jurisdictions of a contractor's operating authority from any jurisdiction to provide uniform application of the policy as well as flexibility and administrative simplicity.

Many owner-operators are individuals who have no previous business experience or skills and are seeking self-employment. They do not have the ability to properly cost their services. Justification for the regulatory regime prior to 1988 was based on the fear that these individuals enter or remain in the industry even when excess capacity exists and they price their services below cost. They eventually go bankrupt even if they gain traffic. Other knowledgeable and viable

carriers may feel compelled to match their rates and also become vulnerable to bankruptcy.

The owner-operators would also be required to demonstrate business and safety skills in obtaining their operating authority. This would not be an administrative burden nor another form of entry control. Many private educational programs could be certified to provide the basic training. A certificate issued by the program may be a sufficient requirement for the Motor Transport Boards to issue an operating authority.

The Task Force received submissions indicating that relations between carriers and operators are commonly unstable. The relationship is too often characterized by disagreements on numerous issues, a general lack of trust and high turnover rates. Owner-operators believe that carriers treat them unfairly and they are at a disadvantage in their relationship with carriers. Grievances include unwritten contracts, ignorance about the rights and obligations of the parties, non-disclosure of important documents, requirements that ignore the owner-operators' independent contractor status, a lack of security for funds owed to owner-operators, and the imbalance in their negotiating relationship.

The Task Force recommended that a written contract between carriers and owner-operators be prepared covering the contract term, compensation, legitimate deductions, the rights of parties to disclosure of essential documents, the placing into trust of funds held back by carriers, and the right of owner-operators to purchase inputs from whatever source they want. It has developed owner-operator contract standards that will promote full disclosure, good business practices and the stability and economic welfare of the independent owner-operator segment of the trucking industry. However, two major issues are still unresolved.

First, the MVTA does not provide the power to provincial transport boards to prescribe owner-operator contract standards. The power delegated to the boards is to issue extraprovincial licences "on the

like terms and conditions and in like manner" as for intraprovincial licences (subsection 8(1)). Thus, the only means by which the contract standards are enforceable against extraprovincial carriers is if they are terms or conditions of the licences issued. However, under paragraph 8(6)(b), as of January 1, 1993, all licence restrictions and conditions cease to have effect (except the requirement not to operate if the fitness criteria are not met).

Second, all jurisdictions will not see fit to legislate compliance with the owner-operator contract standards. This has the potential to undermine their effectiveness, to lead to "jurisdiction shopping" and compliance problems, and thereby to undermine industry stability.

The CCMTA model owner-operator standards were determined after an extensive consultation process with all stakeholders. They represent a balance and compromise of interest that is generally supported by spokespersons for all sectors directly affected. We urge the Commission to recommend that the MVTA be amended to allow owner-operator contract standards to be prescribed by the federal cabinet, and that the model standards developed by CCMTA be prescribed by federal regulation, for all extra-provincial truck undertakings.

e. Survey and Publication of Cost Information: Adequate information in the hands of market participants is essential to the proper functioning of the market. In the trucking industry, the lack of adequate cost information available to small carriers and owner-operators contributes to instability in rates which ultimately leads to general industry instability.

We urge the Commission to recommend that the National Transportation Agency conduct and publish annual surveys of motor carrier costs, in order to promote the better functioning of the highly competitive trucking industry.

f. Uniformity of Regulations: Carriers have complained to the Manitoba

Motor Transport Board about the lack of uniformity of regulations across provincial jurisdictions for extraprovincial trucking. Federal legislation governing extraprovincial trucking should include mechanisms for establishing federal standards that apply nationally when provincial jurisdictions are unable to agree on common rules.

g. **Infrastructure**: Canada's interprovincial and international roadway infrastructure was developed in the 1950's and 1960's. The road authorities responsible for this aging infrastructure's maintenance and repair require more funds to retain its serviceability. The current deterioration of this infrastructure imposes higher costs on the freight transport industry and the Canadian consumers by increasing damage to equipment and cargo, fuel consumption and travelling time. This deterioration of the nation's highway infrastructure must be reversed.

One principal distortion in the federal-provincial division of responsibilities and taxation policy is that while the provinces have primary responsibility for the highway network, the federal government receives billions of dollars in motive fuel tax revenue, but spends only a small fraction of that on roads. Canadians perceive motive fuel taxes as road use taxes. A need exists to make more road use tax revenues directly available to highway construction and maintenance. The National Highway Policy Study For Canada Steering Committee Report on Phase 2 states that, in the period 1983-87, total road related expenditures in actual dollars approximated $24.4 billion of which the provincial and territorial share was $23.2 billion. The federal expenditure of $1.2 billion accounted for the remainder. During the same period, the provinces collected approximately $18.4 billion in road related revenues including motive fuel tax revenues, licence and registration fees and tolls. During the same period, the federal government collected $11.2 billion in motive fuel tax revenues.

Manitoba has promoted the establishment of a national highways policy.

Its benefits include:

1. Relieving the provinces of the responsibility for highways serving national and international needs;

2. Creating a national highway fund, financed from user charges, through federal fuel taxes, for improving and maintaining the highway system;

3. Contributing to national economic growth by facilitating the safe movement of goods and people at the lowest possible cost;

4. Encouraging tourism, and

5. A regular funding program would protect and stabilize employment in heavy construction and related industries.

In 1990, the Council of Ministers Responsible for Transportation and Highway Safety received and approved the release of the third phase of their National Highway Policy Study. It found strong support for a National Highway Policy which included using existing road-related revenues for highways and roads before adding additional road user charges. While highway transportation is very important to the economy of most industrial countries, Canada appears to be the exception in not having national policies for the provision and maintenance of essential highways. With the exception of Canada, all these countries have identified and addressed through national policies and programs a national highway system which forms the major element of their highway systems. Support for the provision and upkeep of a National Highway System in Canada is much less than that of most other countries on a per kilometre basis.

A fourth phase of the study developed a proposal on the technical and administrative matters involved in the development of a National Highways Policy. The proposal was on the agenda of the First Ministers

Conference in March, 1992. Manitoba urges your Commission to incorporate the proposal into your report and recommend the adoption of the national highways program by the federal government. The National Transportation Act should be amended to define the federal national highways policy and legislate a federal mandate for the national infrastructure renewal program. A copy of the proposal is appended.

2. Air Transportation Issues

a. Survival of National Canadian Carrier(s): Over the last seven years under the stimulus of liberalization and competition, a series of mergers, takeovers and consolidations in Canada's airline industry occurred. These developments created a duopoly of two mainline carriers similar to that existing prior to liberalization. At the end of 1990, Air Canada had 55 percent of the mainline market, CAIL had 44 percent of the market and other small operations and charters had 1% of the market share.

While Air Canada and CAIL attempted to adjust to the liberalized environment and increased competition, the recession reduced revenues and both airlines together lost $380 million in 1991 and about half this amount in 1990. These extensive losses are continuing in 1992. The airlines are running out of cash for their short-term requirements, are carrying a huge debt and require an infusion of capital. These financial difficulties for both carriers, coupled with the current and prospective international industry environment, have led industry analysts to argue that the existing structure of the Canadian airline industry is non-viable and unsustainable.

These analysts argue that the Canadian market can only support one carrier. They expect that in the next five years, the United States will have five or six carriers for a population of 240 million, or 40 million people for each carrier. The European Community will have six or seven large airlines for a population of 350 million, or 50 million people for each carrier. In Canada with a population of 27 million, we

have two major airlines competing on the domestic and international front.

The status quo appears untenable given the changes in the structure of the world airline industry and the lack of competitiveness of Canadian carriers relative to foreign carriers, particularly U.S. carriers. One proposed solution is the merger of the two Canadian airlines. Air Canada and other supporters of this "Canadian solution" assume that the merger would create economies of firm size and of traffic density, that would reduce unit costs for the new airline, and make it more competitive. Statistical evidence suggests that economies of traffic density do exist in the industry, but economies of firm size do not. A merger between the two airlines would reduce average unit cost between 3 percent and 14 percent by increasing traffic density, but internal inefficiencies due to the lack of competition could likely increase costs by about 16 percent.[1]

The merger of the two Canadian airlines would no doubt result in many duplicate jobs that would require elimination. CAIL favours an alliance with a foreign airline as another possible solution. In the past two or three years, a number of international alliances developed involving some sort of marketing or operational integration and exchange of equity. KLM-Royal Dutch Airlines bought 20 percent of Northwest Airlines Inc.; Scandinavian Airlines System acquired 16 percent of Continental Airlines Corporation; and Singapore International Airlines exchanged 5 percent equity with Delta Airlines and Swissair. In a different approach, British Airways PLC, KLM, and Northwest Airlines have combined forces to jointly handle cargo. Air France, Cathay Pacific Airways and several other airlines share software programs to help run their operations better.

---

[1] T. H. Oum, M. W. Tretheway, Monopoly Versus Duopoly in Canada's Airline Industry: Policy Alternatives and Consequences, Economic Research Branch, Transport Canada, October 1991, p. 25.

These joint ownership ventures create the mega-carriers whose reach extends to larger portions of the world. They organize their route networks around hubs in several countries and through the hub and spoke system have the ability to carry passengers on-line from origins to destinations within large portions of the globe. Air Canada and CAIL, though operating international routes, do not have hub and spoke operations and do not have the necessary global presence, individually or jointly, required of a mega-carrier.

Such an alliance with an American carrier could provide an infusion of new equity into the Canadian carrier. It would provide new links to the American domestic market with fewer transfers, efficient integrated baggage handling and a compatible frequent flier program. Sharing ground services at airports where both have operations would mean greater efficiency. Computer reservation systems may also be shared to both carriers' benefit. The mega-carrier could offer preferred rates over existing inter-airline fares. The larger American carriers are major purchasers of equipment, and the Canadian carrier could benefit when it comes to purchasing new equipment. The Canadian carrier would have preferred access to the American carrier's passenger travelling to Canada. Securing airport privileges at congested airports can be very expensive or not possible, but access to a partner's place would resolve the problem of airport access.

Manitoba has a standing policy not to favour one carrier over another, but to support continuation or expansion of services to all Manitoba communities at reasonable fare levels. Manitoba also wishes to see carriers remain financially viable and maintain employment opportunities in Manitoba. Manitoba is indifferent to the solution chosen as long as services to Manitoba communities and employment opportunities will not deteriorate as a consequence.

Manitoba would be concerned if a Canadian carrier, after an alliance with an American carrier, concentrated their efforts in expanding into established markets on major transborder and overseas routes and reduced

their commitment to serve the smaller domestic Canadian markets. While maintaining their efforts within the more mature markets in southern Canada, they might withdraw jet service from smaller markets or downgrade service to their feeder carriers providing propeller aircraft service.

Manitoba would also be concerned if a single merged Canadian carrier was unable to operate efficiently without competition and used its monopoly position to impose higher fares on Manitoba routes. The Province would also be concerned even if the carrier operated efficiently, but abused its monopoly position to impose excessive rates on Manitoba routes to extract higher profits. Manitoba believes that regulatory oversight would be required if a single national airline operated in Canada. The National Transportation Agency should then regulate the airline's rate of return on profit and invested capital.

b. **Economic Regulation of Northern Zone (Designated Area)**: Under the Act, Canadian air carriers are subject to two distinct regulatory regimes based on the location of the points they serve. In the designated area, markets of northern and remote communities are regarded as "fragile" and the carriers are still subject to controls over entry, fares, and other terms and conditions of service. The previous requirement for entry to air service in northern and remote areas based on a test of "public convenience and necessity" was replaced by the condition that if there is an objection to the proposed service, the National Transportation Agency must be satisfied that the new service will not "significantly decrease or destabilize existing air services in the area". The Agency may still subject licences to conditions related to such matters as the type of service, the size of aircraft and the points served. The discontinuance rules are still the same as for southern domestic service, namely 120 days advance public notice.

Manitoba favours retaining the current regulatory regime that applies to the designated area. The communities in the designated area generate light volumes of traffic. A carrier needs to obtain a minimum load

factor on the aircraft used to operate an efficient air service. The light volume of traffic means a carrier in the designated region operates close to the minimum load factor more frequently on every flight. A new carrier and an existing one cannot share the market without making the provision of air service uneconomic for both. An economic need exists to limit entry to ensure existing carriers with sufficient traffic to remain viable.

We have received complaints from northern residents on the high level of fares. Complainants have been referred to the National Transportation Agency. The Agency reported that it has investigated five complaints in total since 1988 and has found the fares to be reasonable.

c. **Servicing Low Volume Domestic Routes**: When the United States deregulated the air industry, it established a program to subsidize flights to smaller communities where service was deemed to be necessary, but uneconomic for carriers. Although the 1987 Act allows for a similar program in Canada, the federal government has declined to establish one.

The loss of service to small communities must be avoided. Federal air policy should encourage domestic carriers to find alternative ways of serving these communities if service with the aircraft currently in use is uneconomic. While most of Canada's population reside in a narrow band close to the American border and this limits the development of the hub and spoke air network, incentives should be provided to encourage carriers to form hub and spoke networks based on key federal airports to maintain service on low volume domestic routes. An assistance program to air carriers willing to serve these routes should also be considered.

3. **Railway Transportation Issues**

a. **Competitive Access to Railway Transportation**: Prior to 1988, shippers wanting to negotiate rates dealt with a railroad monopoly because Canadian railroads were permitted to collaborate in setting rates between common origins and destinations. The 1987 Act

eliminated the railroads' immunity from federal anti-collusion legislation and undertook to encourage competition between railroads operating in Canada through four new measures:

(1) Final Offer Arbitration
(2) Extended Interswitching Limits
(3) Competitive Line Rates
(4) Confidential Contracts

(1) Final Offer Arbitration:

Final offer arbitration is a process whereby a shipper, who is dissatisfied with the progress of negotiations with a railroad on rates and conditions of the traffic movement, can apply to the National Transportation Agency to arbitrate between the shipper and the carrier. The Agency has a list of arbitrators from which shipper and carrier may chose or it can select the arbitrator to examine both parties' final offers and select one which the parties must accept for a period set by the Agency. The Agency, carrier, and shipper are provided with legislative deadlines to expedite the decision. The Agency has reported that it has received only three applications for final offer arbitration since 1988. However, it reports that Canadian shippers favour the legislation because they can end a deadlock in negotiations with a railroad by suggesting the process be used to reach a settlement. Manitoba supports retention of these provisions in the legislation.

(2) Extended Interswitching Limits:

Interswitching is the transfer of railcars at an interchange between two railroads at a prescribed rate. The 1987 Act gives shippers located on the line of one railroad within 30 kilometres of an interchange point the right to negotiate a movement with the other railroad from the interchange point to a destination. The second railroad may then ask the first to deliver its cars to the shipper and return them loaded to the interchange. The 1987 Act extended the maximum distance within

which the right to request interswitching exists from four miles (6.44 kilometres) to 30 kilometres. The change made it possible for shippers in all major metropolitan cities in Canada to obtain service from more than one railroad.

The Agency has reported that shippers and railroads are positive about the extended limit. Statistics obtained by the Agency from CN and CP indicate that approximately 60,000 railcars were moved between 1988 and 1990 from origins within the extended range of the interswitching limit. Extending the interswitching limit appears to have increased competition among railroads. Manitoba recommended the introduction of this provision and continues to support its application.

(3) Competitive Line Rates:

The 1987 Act provides rate protection for a shipper with an origin or destination on one railway's lines located beyond the thirty kilometre limit from an interchange with another railroad's line. That shipper can negotiate a movement to an interchange point from an origin or from an interchange point to a destination on the other railroad's lines. The shipper may then request the first railroad to provide a rate over its line to the interchange point. If the carrier refuses or provides what the shipper believes is an unacceptably high rate intended to discourage the movement, the shipper may request the Agency to set a more acceptable rate.

The Agency has set five competitive line rates since 1988. Agency surveys revealed that 24 shippers in 1989 and 16 in 1990 attempted to negotiate competitive line rates. Thirteen of the twenty-four in 1989 and twelve of the sixteen in 1990 were satisfied with the rates and services negotiated. Again shippers reported to the Agency availability of this provision was beneficial in negotiating terms with the railroads. Manitoba recommended the introduction of competitive line rates and believes it has been successful in providing shippers with better leverage in rate negotiations. Manitoba favours retaining the

availability of competitive line rates.

(4) Confidential Contracts:

The 1987 Act replaced the requirement for the filing and publication of rates negotiated between rail carriers and shippers. The Act permits carriers and shippers to negotiate a contract whose terms are confidential to the parties although the contract must be filed with the Agency. The principle behind confidential contracts is that a carrier would be more willing to make a rate concession to a shipper if other shippers were unaware of the details because they would be less able to demand similar treatment. The reduction in revenue due to the reduced rate would be limited. Not knowing the terms, a competing carrier would have some difficulty in organizing a more attractive package. From the shipper's perspective, its competitors would have some difficulty in analysing its final selling prices to determine how they could underprice the shipper's product. In the discussions leading to the passage of the 1987 Act, shippers perceived confidential contracts as an important tool to enhance competition.

The principle of confidential contracts differs from the traditional economic view of competition. In this view, competitive markets function like public auctions with all buyers and sellers aware of the prices bid and able to gain knowledge about the products being sold. Public knowledge of prices and the conditions of sale are assumed to be a good thing. From a businessman's perspective, competition means finding a way to gain an advantage over a rival to obtain higher sales or profits. Businessmen see the secrecy provided by confidential contracts as enhancing competition.

The growth in the use of confidential contracts demonstrates their popularity. The number of contracts and amendments filed with the Agency increased significantly from 1,638 in 1988 to 13,364 in 1991. In Agency surveys, shippers identified confidential contracts as a very important tool in obtaining competitive terms for their rail transport

needs. The railroads are also very pleased with the confidential contract provision.

However, the advantages of the confidential contract remain with shippers who can ship large volumes of goods on a regular schedule. Such shippers can negotiate significant rate reductions. We continue to have concerns that shippers who have small or emerging operations generating single carload or less than carload shipments are excluded from these advantages. We have not seen any Agency study that addresses the question to what extent small shippers may be disadvantaged by confidential contracts. We urge your Commission to undertake such studies or recommend such studies be done.

b. **Compensatory Rate Requirement**: The present Act requires a railroad to charge freight rates that cover the railroad's variable costs or expenses attributable to a specific movement. The provision, part of the National Transportation Act since 1967, prevents a railroad from engaging in predatory competition in which it undercuts rates offered by competitors to drive them out of a specific market.

Trucking and marine companies support the retention of this provision. Shippers have been divided on the need for such a provision. Those with access to other transport modes believe the provision is unnecessary. Shippers who are captive to the railroads for service fear that allowing a railroad to charge rates below variable costs in competitive markets will result in their paying higher rates to cover the railroad's losses in the competitive markets.

Under the 1987 Act, the Agency investigates complaints of a railroad charging rates below variable costs and holds a hearing to determine if the rates are non-compensatory and whether the non-compensatory rates could harm competitors or lessen competition. The Agency has discretion to allow a non-compensatory rate to stand if it can be shown that the rate was neither intended to, nor does, harm competitors nor lessen competition.

In practice, the Agency has heard four cases under this section of the Act. In two cases, it determined the rates to be non-compensatory, but it did not find any clear evidence of intent to lessen competition or harm a competitor. One of these cases was a complaint filed by Canadian Pacific Railway Ltd. against Burlington Northern Ltd. for rates charged on canola oil shipments from Winnipeg to Emerson. The Agency ordered Burlington Northern Ltd. to increase the rate to a compensatory level.

Manitoba has advocated making provision for the use of rates below variable costs as temporary development rates so that the railroads could attract new traffic and develop new markets. The current legislation allows the opportunity for the railroads to set temporary developmental rates as we have advocated. However, if an affected party complains to the Agency that the rates are non-compensatory, the Agency must investigate, hold a hearing to establish the rates are non-compensatory, and then allow them to stand by not ordering their elimination. If we support the rates for developmental purposes, Manitoba has to intervene on behalf of the railroad and shipper. The relevant sections of the 1987 Act (112 and 113) should be amended to explicitly allow the rate to stand even if non-compensatory if it can be established such rates are for developmental purposes only.

c. **Branch Line Rationalization Process**: Service to small rural communities is important to Manitoba. Manitoba depends heavily on exports. In southern Manitoba, the railroads are the principal mode for accessing grain export markets. Rural communities are the sites of grain collection points for rail transportation. Branch lines are essential feeder arteries to the main line rail system and are essential to export access. Legislation governing branch line abandonment should recognize this vital role.

Manitoba has opposed past rail line abandonments because the federal government, responsible for railroads, would not offer compensation programs to offset the negative impacts of abandonment including:

- impacts on provincial and municipal roads
- additional trucking costs for shippers, mostly grain farmers in Manitoba; and
- tax losses for municipalities.

Manitoba recognizes the need for rail rationalization throughout Canada to reduce rail costs so that shippers can be offered competitive freight rates. The railway network in Central and Eastern Canada is underutilized relative to that in Western Canada. Traffic in Western Canada must support this under-utilized eastern network. Since much of this traffic is low valued raw materials destined for export markets and sensitive to excessive freight rates, rationalization is necessary for a more competitive economy. This is especially true for grain freight rates which are cost based so that savings from abandonment reduce producers' freight rates.

Manitoba initiated the concept of a responsible rail rationalization proposal. The four Western Provinces have refined and expanded it into a comprehensive package. A copy of our proposal is attached to this submission as Appendix C. Manitoba asks that your Commission recommend that the principles of this proposal be introduced into the National Transportation Act and federal transportation policy. It would result in a more efficient and lower cost transport system. The Federal/Provincial/Railway Committee established to identify a national rail system will be exploring the proposal.

The system will continue to be frustrated if the process continues to ignore socioeconomic impacts arising from abandonment and federal policy ignores the need to establish a compensation program. We insist that national transportation policy change consistent with the principles of the Western Provinces' Responsible Rail Rationalization Proposal to eliminate the adversarial nature of the rail rationalization process and advance overall transportation system efficiency. The compensation program would only apply to those rail lines where it can be established that a serious need exists to consider non-rail alternatives. It is

important that the evaluation process consider all costs of the various service alternatives using a standardized uniform methodology. Only through this process can we be assured of moving towards an effective and lowest cost transportation system. Manitoba will continue to vigorously oppose indiscriminate abandonment initiatives involving the essential rail network.

Short line railroads are one alternative to branch line abandonment. A short line railroad is an independent company that takes ownership and control of a branch line or branch lines which the national railroads wish to abandon. The short line railroad provides a rail service on the branch line using its own motive power and exchanging railcars with the mainline railroad. A short line railroad will likely not cross a provincial boundary and will usually be under the jurisdiction of the individual provinces. Manitoba does not have legislation in place under which a short line railroad can operate. Its Railway Act is antiquated and has not been reviewed since 1938. Manitoba is presently developing legislation to cover short line railroads, but we are concerned that inconsistencies could occur as each province develops its own legislation. The inconsistencies could exist between the federal legislation and the legislation of some provinces or among several provinces. Guidelines should be established for the provinces to provide for uniform and compatible provincial short line rail legislation as well as harmonization with federal legislation.

A variety of groups and individuals have contacted us to obtain our support for the establishment of a short line railroad. We are concerned that interested parties do not have the necessary information to evaluate the prospects of the success of such a business venture available to them. In the United States where short line railroads have been encouraged for a number of years, the Interstate Commerce Commission published a guide to those interested in starting a short line railroad on how to do this. Our federal government should publish a detailed information guide for potential short line investors to insure complete awareness of the many diversified issues to consider in

acquiring track and operating a railroad.

4. Accessible Services For Persons With Disabilities

On May 5, 1992, the federal government introduced an omnibus bill which would amend the declaratory clause of the 1987 Act to read:

> "... a safe, economic, efficient, and adequate network of viable and effective transportation services **accessible to persons with disabilities** ... is essential to serve the transportation needs of shippers and travellers, **including persons with disabilities** ..."

Manitoba supports this initiative in meeting the needs of travellers with disabilities by making it an integral part of national transportation policy.

In 1981, Manitoba Highways and Transportation initiated the Program for Transportation of the Mobility Disadvantaged in Rural Manitoba. This program was designed to provided accessible transportation to persons with mobility disadvantages in rural Manitoba and has expanded from a modest beginning of four communities participating in the program to forty three communities in 1992 with three more communities having applied to join the program. The community based handivan services are subsidized and are used in inter-city travel consistent with community needs.

The program provides three types of grants:

1. a one time start up grant,
2. a one time capital grant to assist in the acquisition of a capital item such as a handivan, and
3. an annual operating grant to assist in the ongoing operational costs of the service.

The communities currently sponsoring handivan services have a

combined population exceeding 200,000 people, representing 47 percent of Manitoba's rural population. The administration of this program was transferred to the Department of Rural Development in 1991. This program has been extremely successful in meeting the service needs of citizens in rural Manitoba.

Transport Canada contributed financially to many of the communities participating in this program through its Accessible Vehicle Acquisition Program.

On July 26, 1991 the Manitoba Legislature passed Bill 47, (an Act amending the Highway Traffic Act) respecting parking provisions for the physically disabled. This bill came into force on September 26, 1991, and ensures disabled persons have access to a provincial parking permit as an entitlement to any parking space designated for persons with disabilities in Manitoba. Established in cooperation with all other jurisdictions in Canada, this parking permit will be recognized across Canada as well as in most jurisdictions in the United States.

The Manitoba retail sales tax applies on all vehicles purchased in the province. Under Section 3-1 of the Retail Sales Tax Act, a rebate of the sales tax is available on application for that portion of the cost relating to the cost of converting a vehicle to make it usable by persons with disabilities.

Building code accessibility standards, designated under Section 3-7 of the Manitoba Building Code, ensures that any new construction or major renovations are designed to be fully accessible.

Manitoba Urban Affairs and Rural Development provide grant funding to the City of Winnipeg and the City of Brandon transit systems respectively. Part of this funding is directed to Handi-Transit operations to provide transportation services to persons with disabilities.

The federal government has also referred the proposals contained in the document entitled Legislative Reform For People With Disabilities ... Proposals For Change... prepared by the Canadian Disability Rights Council for your Commission's consideration. While Manitoba supports increased accessibility for persons with disabilities as evidenced by our above actions, we are concerned by the uncompromising and draconian rigidity of the Council's recommended amendments.

These amendments would:

1. Require the Agency to make regulations to eliminate barriers to access within six months of the 1987 Act being amended and deny the Agency any discretion in the matter.

2. Eliminate federal Cabinet oversight of the Agency's actions.

3. Remove the adjective "undue" modifying obstacles to those with disabilities and deny discretion to the Agency to decide whether such actions to remove a perceived obstacle are reasonable.

4. Eliminate the ability of the Agency to amend regulations in the future.

5. Prevent the federal cabinet from exempting any person, carrier, service or facility from the provisions of the Act.

6. Give the Agency the authority to override decisions by provincial authorities in matters where federal powers have been delegated.

7. Require an Agency standing committee to meet every three years and hold public hearings on the issue of barrier review with the publication of a report and recommendations.

8. Require the establishment of an Accessible Transport Fund with an initial allocation of $300,000 in two instalments to provide research funding and travel assistance to persons with disabilities or organizations so they can participate in public proceedings of the Agency; the fines levied on those who contravene the regulations will be paid to the fund.

9. Require the Agency to issue regulations two years after amendments past and every three years thereafter to implement the new section of the Act.

10. Require the Agency to inquire, upon application, into any matter where a regulation could be made or has been made to see if an obstacle to access exists.

11. Require the Agency to determine if an obstacle exists even if no regulation has been contravened or all existing regulations have been complied with.

12. Require the Agency, upon discovering an obstacle, to either order corrective action, or require compensation to the person with a disability or both.

13. Doubles the current level of fines for infractions of the regulations.

The Council also requested the addition to the statement of National Transportation Policy of a section stating the "regulation of all modes of transport will provide safe, reasonable and equitable access to transportation by people with disabilities in Canada through the removal of <u>all</u> physical and other barriers".

The Council has also requested an amendment to the Motor Vehicle Transport Act permitting the Agency to override provincial jurisdiction over delegated extraprovincial undertakings.

Manitoba is dismayed by the approach taken by the Council. We support increasing accessibility of persons with disabilities to all modes of transportation as our past actions demonstrate. This can be achieved with provincial and industry cooperation, not by having a federal agency force the Province and transportation industry to provide services regardless of cost or expected usage of the facilities and equipment by the target population. The Agency and federal government must have discretion to determine the level and extent of actions to reduce barriers to access. Manitoba prefers the qualifier "undue" retained to describe obstacles were action is required. It prefers the Act allow discretion to the Agency on whether to act in specific instances or not.

5. **Consequences for Regional Economic Development**

Your mandate includes assessing the effect of the 1987 Act and related legislation on shippers, travellers and carriers and on trade, regions and their economic development. The 1987 Act specifically states:

> "transportation is recognized as a key to regional economic development and commercial viability of transportation links is balanced with regional economic development objectives in order that the potential economic strengths of each region may be realized", and
>
> "each carrier or mode of transportation so far as practicable carries traffic to or from any point in Canada under fares, rates and conditions that do not constitute...
>
> (iv) an unreasonable discouragement to the development of primary or secondary industries or to export trade in or from any region of Canada or to the movement of commodities through Canadian ports,"

Manitoba advocated these objectives when the federal government

initially intended to exclude them from its proposed transportation legislation. Manitoba believed and affirms its belief that transportation is an important tool of public policy to promote economic development. As the introduction to our submission stated, the development of Manitoba has been linked to the development of the transportation industry. We believe that this will continue to be the case.

Transport costs, like international trade tariffs, can be effective barriers to increased trade between Manitoba, and the rest of Canada and the world. The prices of Manitoba exports, which include transport costs, must be similar to competitors' prices to attract potential buyers. Higher transport costs result in higher prices reducing sales or lower profit margins. The lowering of existing tariff barriers through the Canada - United States Trade Agreement, the Agreement being negotiated between Canada, Mexico and the United States, and the General Agreement on Tariffs and Trade, will make transportation rates a more important factor in international trade.

Manitoba's leading role in the removal of institutional barriers to interprovincial trade will also make transportation rates a more important factor in international trade.

Another important factor in satisfying customers and making sales is the reliable and timely supply of these goods. This requires an effective transport system.

Since the cost of imports to Manitoba include transport costs, an inefficient high cost transportation system causes higher prices for Manitoba consumers. This reduces their real incomes, relative to other Canadians, to a lower level than can be achieved with an accessible low cost and efficient transportation system.

The 1987 Act defines the above objectives as items of public

interest and empowers the National Transportation Agency under sections 58 through 63 to investigate complaints that carriers' actions with respect to rates, and conditions of carriage have prejudiced the public interest in this regard. However, section 58 limits such complaints to disputes between shippers and carriers, and appears to restrict the right to ask for an investigation to a shipper or an organization of shippers. Provincial governments have responsibility for the sustainable economic development of their provinces. Sections 58 and 59 should be amended to permit provincial governments or agencies with responsibilities for economic development to request that the Agency investigate negative consequences for the public interest involving rates and conditions of carriage.

IV. CANADIAN TRANSPORTATION INTO THE 21ST CENTURY

1. Transformation into a Continental Market.

Until recently, the predominant transportation market in Canada was a national east west market. In 1986, Manitoba expressed its concern that the proposed liberalization of the motor carrier industry was tantamount to free trade in trucking services. We expressed the concern that Canadian firms would not be able to compete with American carriers and Canadian employment would suffer. Canadian carriers would lose traffic in the transborder market and American subsidiaries might dominate the Canadian market.

The implementation of the Canada United States Free Trade Agreement (CUSTA) is transforming the two national markets into a single continental market. American and Canadian businesses that operated in both countries are reorganizing their production and distribution systems to operate in a continental market. The movement of goods in a north south direction will become a larger proportion of all traffic movements. While this is occurring

despite transportation's exclusion from the CUSTA, the inclusion of land transportation in the North America Free Trade Agreement negotiations would establish the legislative environment for a continental market in transportation.

Motor carriers are also reorganizing their operations to serve a continental market. Larger Canadian carriers such as Canadian Pacific Trucking Ltd. have established U. S. based subsidiaries to be in a better position to compete for cross-border traffic and participate in the United States markets. These carriers prefer a U.S. presence partly because of more generous capital depreciation allowances in the U.S. tax system as well as existing U.S. customs and immigration laws.

Motor carriers now use more "route triangulation" to obtain better utilization of their equipment. From an economic perspective, a carrier operates most efficiently if its trucks operate with the least amount of empty mileage. Having cargo to haul in both directions is the ideal, e.g., a Winnipeg - Calgary movement and a Calgary - Winnipeg movement. If a two way haul is not available, carriers can minimize empty mileage by seeking a return haul from a third point. In our example, if a Calgary -Winnipeg haul is not available, but an Edmonton - Winnipeg one is, then the carrier can route the truck, Winnipeg - Calgary - Edmonton - Winnipeg. The carrier will seek a Calgary - Edmonton load, but even if it does not find one, the number of unproductive empty miles is reduced. Canada offers limited opportunities for this type of route planning compared to the United States because our cities are concentrated in an east - west band near the international border. The United States offers more opportunities for this routing pattern. U.S. Customs and Immigrations restrict Canadian carriers and drivers from transporting cargoes on a leg of a route wholly within the United States. A carrier with an American base and employees and equipment can utilize triangular routing patterns more effectively than a carrier without them.

The development of "continental rail networks" also illustrates how both carriers and shippers organize distribution of goods on a continental scale. Continental rail networks describes transportation networks based on railways with links both in Canada and the United States. Both Canadian and American shippers use continental rail networks to access North American or overseas markets using the most cost efficient and effective means and routing possible. The networks not only include railroads with lines in both countries, but also intermodal movements with trucks crossing the international border to reach railhead.

Two types of traffic in Canada use this service. The companies that handle international container traffic regard North America as a single market and ship containers by the best route regardless of borders. Canadian natural resource exports that move in large volumes from inland locations within Canada to the U.S. or export positions at coastal ports generally have low value. Transport costs are a large percentage of the final selling price and shippers will choose the most efficient and effective route.

The following developments result from shippers seeking to access continental rail networks:

1. Canadian exporters of raw materials such as coal, grain, potash, sulphur and lumber are using or considering the use of United States ports as export positions instead of Canadian ports.

2. An Alberta methanol producer switched from a rail-marine route through Vancouver to an all-rail overland route to a southern United States.

3. Canadian National Railways and C.P. Rail have each integrated its Canadian railway system with that of its American subsidiaries to form a North American network linking Canada and the north central and eastern industrial states. The two

railroads are introducing new services and investing in new infrastructure to provide competitive intermodal container and piggyback trailer services for the international market.

4. Burlington Northern has direct access to Winnipeg and Vancouver and traffic interchange points in Saskatchewan and Alberta. Shelby, Montana just south of Alberta is the site of an inland port, financed by the Port of Tacoma, on the BN main line. The State of Montana and Alberta signed an agreement wherein Montana permits trucks at Alberta's weight limits to access Shelby, and Alberta allows the trailer configurations permitted by Montana. Bulk and container traffic moves by truck from Alberta to Shelby and by rail to the Port of Tacoma.

2. Linkages with Related Initiatives

The federal government has initiated a number of ongoing activities affecting transportation in Canada. Agriculture Canada initiated a process to reform agricultural transportation policies including the method of paying the federal government commitment under The Western Grain Transportation Act, the minimum compensatory rates for canola oil, and the feed freight assistance program. After the federal government announced its intention to reduce its assistance to VIA Rail, it established the Royal Commission on Passenger Transportation into the 20th Century. The Council of Ministers of Transportation initiated a study to define a national highway network and a new national highway policy through the Transportation Association of Canada (TAC). The federal and provincial governments, and the railroads are working under the auspices of TAC to define a national rail network. The federal government is planning to initiate a Royal Commission on Freight Transportation into the 20th Century. Further, the Transport Committee of Parliament has initiated two inquiries: one dealing with ports, and one dealing with the Great Lakes St. Lawrence Seaway.

Manitoba is concerned that each of these initiatives are compartmentalized and its impacts are being assessed independently. We believe there is a need for an overview by some group of all these initiatives. Your Commission's mandate is general enough for you to include an overview of them. Your report should identify these initiatives and describe their progress, and interrelationships and implications for national transportation policy and legislation.

The Agriculture Ministers have decided to proceed with reforms to the Western Grain Transportation Act on a scheduled basis. These reforms will probably include a new process for abandoning grain dependent branch lines in the Prairie Provinces. A separate process to abandon these lines may be instituted within the framework of the WGTA. The outcome for the method of paying the federal government subsidy is unclear because the farm community and the provincial governments are divided on the issue. However, a change could significantly affect the choice of mode between rail and truck in transporting grain. Since grain is one of the most profitable commodities moved by rail from Manitoba and the Prairie Provinces, a change in the method of payment could have significant impacts for the operations and viability of Canadian railroads. It could also have an impact on the growth of the trucking industry in the Prairies.

The Agriculture Ministers have accepted the principle that a change in the way the Canadian Wheat Board (CWB) pays for transportation and handling of wheat and barley from Thunder Bay to St. Lawrence ports must be linked to a change in the method of paying the federal commitment to grain transportation. The CWB currently pays for these services from revenues generated from sales from all ports. Grain producers in British Columbia and Alberta whose grain gets exported primarily through west coast ports resent paying for services they do not receive and have demanded this procedure change and those who use the Great Lakes St. Lawrence System pay the costs. Manitoba whose grain is shipped primarily through the

east coast would only accept this if its grain producers received a larger share of the federal government subsidy on grain transportation in compensation for the extra transportation costs imposed on them.

We have attached a copy of our submission to the Royal Commission on Passenger Transportation into the 20th Century for your information. We also request that your Commission review the studies done on the National Highway Policy For Canada for the Council of Ministers Responsible for Transportation and Highway Safety and consider incorporating their findings and recommendations into your report.

Appendix A

THE OBJECTIVES OF THE NATIONAL TRANSPORTATION ACT 1987
NATIONAL TRANSPORTATION POLICY

3. (1) It is hereby declared that a safe, economic, efficient and adequate network of viable and effective transportation services making the best use of all available modes of transportation at the lowest total cost is essential to serve the transportation needs of shippers and travellers and to maintain the economic well-being and growth of Canada and its regions and that those objectives are most likely to be achieved when all carriers are able to compete, both within and among the various modes of transportation, under conditions ensuring that, having due regard to national policy and to legal and constitutional requirements,

(a) the national transportation system meets the highest practicable safety standards,

(b) competition and market forces are, whenever possible, the prime agents in providing viable and effective transportation services,

(c) economic regulation of carriers and modes of transportation occurs only in respect of those services and regions where regulation is necessary to serve the transportation needs of shippers and travellers and such regulation will not unfairly limit the ability of any carrier or mode of transportation to compete with any other carrier or mode of transportation,

(d) transportation is recognized as a key to regional economic development and commercial viability of transportation links is balanced with regional economic development objectives in order that the potential economic strengths of each region may be realized,

(e) each carrier or mode of transportation, so far as practicable, bears a fair proportion of the real costs of the resources, facilities and services provided to that carrier or mode of transportation at public expense,

(f) each carrier or mode of transportation, so far as practicable, receives fair and reasonable compensation for the resources, facilities and services that it is required to provide as an imposed public duty, and

(g) each carrier or mode of transportation, so far as practicable, carries traffic to or from any point in Canada under fares, rates, and conditions that do not constitute

(i) an unfair disadvantage in respect of any such traffic beyond that disadvantage inherent in the location or volume of the traffic, the scale of operation connected therewith or the type of traffic service involved,

(ii) an undue obstacle to the mobility of persons including those persons who are disabled,

(iii) an undue obstacle to the interchange of commodities between points in Canada, or

(iv) an unreasonable discouragement to the development of primary or secondary industries or to export trade in or from any region of Canada or to the movement of commodities through Canadian ports,

and this Act is enacted in accordance with and for the attainment of so much of those objectives as fall within the purview of the subject-matters under the legislative authority of the Parliament of Canada relating to transportation.

Appendix B

THE PORT OF CHURCHILL

INTRODUCTION

The Port of Churchill, located at the mouth of the Churchill river on the western shore of Hudson Bay, is Canada's only northern seaport. Canadian National Railways services this port with a rail line from Hudson Bay Junction, Saskatchewan to Churchill, Manitoba. The federally operated port currently exports wheat and barley and serves as a resupply terminal for communities in the Keewatin District of the Northwest Territories. The Port is Churchill's largest single employer and the town's base industry. It provides 32 permanent and 110 seasonal jobs with a payroll in excess of $3 million. The Northern Transportation Company Limited (NTCL) operates a tug and barge resupply operation from Churchill to Keewatin communities on the west side of Hudson Bay. This operation involves 12 employees and a payroll of approximately $200,000. The current population of Churchill is 1,143.

The Town of Churchill is a major service centre for the Keewatin District providing medical, dental and government administration services. It also serves as a resupply service centre for exploration crews searching for gas, oil, and other minerals in the Bay and the Northwest Territories.

In addition to grain movement, the rail line also carries VIA Rail passenger service three times a week. The Winnipeg-Churchill service also provides year-round surface transportation to a number of isolated communities on the line. VIA RAIL carries approximately 7,000 tourists annually to Churchill to view unique northern attractions.

The viability of the Port of Churchill has been a major concern of all Manitoba governments for many decades. They have all been dissatisfied with the under utilization of the Port by the Canadian Wheat Board as well as the reluctance of Canadian National Railways

to upgrade the rail line and provide rolling stock to carry adequate volumes of grain. The Manitoba Government is concerned about the long term future of the Port, the rail line and the implications for further development of the north.

It is in this context that we welcome the five year review of the National Transportation Act and National Transportation Policy. This submission will assess the effectiveness of various provisions of the Act as they relate to Churchill and recommend changes that should help in providing more stability for the Port and the Churchill area.

The rail line to Churchill became part of the Canadian National Railways system in 1951. The track is in reasonable condition for existing railway operations, but CN will not use hopper cars to transport grain on the line although they have been hauling fully loaded hopper cars of cement. Boxcars are being used for the movement of grain to Churchill. These boxcars have been out of production for some years and the supply is rapidly diminishing.

For the foreseeable future, rail remains the only surface link for many communities on the line to Churchill and populated centres to the south and the only means of transporting commodities not suitable for air transport.

The administration, management, and control of both the grain elevator and the public harbour at Churchill are the responsibility of Ports Canada. Ports Canada also owns the vessel handling and cargo equipment at the Port.

WHERE ACTIONS DIVERGE FROM NATIONAL POLICY:

The National Transportation Act of 1987 made significant amendments to The Railway Act. The amendments were designed to foster a more

competitive environment and to reduce regulatory burdens on railways. Section 3 sub-section 1 of the Act states that:

> "a safe, economic, efficient and adequate network of viable and effective transportation services making the best use of all available modes of transportation at the lowest total cost is essential to serve the transportation needs of shippers and travellers and to maintain the economic well-being and growth of Canada and its regions".

Sub-section 1(d) further states that "transportation is recognized as a key to regional economic development and commercial viability of transportation links is balanced with regional economic development objectives in order that the potential economic strengths of each region may be realized."

1. Making the Best Use of all Modes at the Lowest Possible Cost

Shipping grain from the Churchill hinterland costs grain producers less than it would through the Great Lakes - St. Lawrence system because the Churchill route avoids additional handling and transportation. This extra cost of shipping through Thunder Bay is approximately $20-25 per tonne. Deliveries at elevator companies in the Churchill hinterland area over the past five years indicate that there is sufficient wheat and barley to supply more than a million tonnes a year to Churchill for export. Approximately twenty-five percent of western grain is grown in the Churchill catchment area. Churchill offers the shortest and most direct route to Russia and other European countries. In spite of these significant factors, only 376.1 thousand tonnes of grain were shipped from Churchill in the 1990/91 shipping season. Over the six year (1985/86 to 1990/91) period, the average amount of grain shipped per year from Churchill was 375.6 thousand tonnes. This small amount of grain is not enough to make the Port

self-sustaining and is not in keeping with the present legislation. Section 3.(1) of the NTA specifically states that ... "making the best use of all modes of transportation at the lowest total cost is essential to serve the transportation needs of shippers and travellers". Yet significant volumes of grain are shipped from the Port of Thunder Bay at transportation rates that are approximately $20 per tonne higher than at Churchill. For example, in the 1990/91 shipping season, 43.1% of all export grain was shipped from the Port of Thunder Bay. On the other hand 1.3% of the export total was shipped from Churchill.

The irony of the situation is that the anti-Churchill lobby is pressing for its closure at a time when the Grain Transportation Agency is projecting a shortfall in export capability at West Coast ports within a few years.

2. Regional Development

Section 3(1)(d) of The National Transportation Act acknowledges the important role transportation plays in regional economic development in achieving our national objectives. However, the economic potential for the Port of Churchill and its hinterland has been hindered by CN's negativism towards the rail line to Churchill. Predominantly due to cost considerations, CN has not aggressively marketed the line and has resisted proposed methods for overcoming obstacles to the increased transport of grain through Churchill including:

(1) Mixing hopper cars and boxcars in trains. (As stated previously, CN uses hopper cars for the movement of cement on this line. They claim that they cannot move solid trains of hopper cars due to the risk of harmonic oscillation leading to possible derailment. This can be avoided by interspersing hopper cars in a train consist with box cars.

(2) Refurbishing boxcars.
(3) Acquiring articulated hopper cars which offer better track stability.
(4) Installing cryo-anchors to stabilize the rail line.

Without the rail line, resupply activities, the rocket range, tourism, exploration activities, and hydro development all necessary for the development of the region will be threatened.

3. **Rail Passenger Traffic**

VIA Rail currently operates a tri-weekly service from Winnipeg to Churchill with 91 stopping points along the route. Persons living around 51 of these points have no alternate mode of transportation.

People use the train for commuting for grocery shopping, medical and dental appointments as well as for accessing traplines. A significant proportion of the train users are aboriginal people. The existing rail line thus provide travellers in these communities with essential transportation service.

VIA Rail underwent a major restructuring in 1990. The national network was significantly reduced and passenger cars were refurbished. However, the question of remote service was never resolved. The issue is presently before the federal cabinet. The residents of Northern communities view rail passenger service as a necessity to survive in that region of the province. Any reduction in service will create additional hardship and inconvenience.

A study of tourism in Churchill, undertaken through the auspices of the 1984 Canada-Manitoba Subsidiary Agreement on Churchill estimates that 7000 tourists travel to Churchill by rail on an annual basis. The seven thousand visitors spend approximately $300 each for a total of $2.1 million. These expenditures generate the

following direct and indirect impacts:

Jobs	125
Wages	$1,623,000
Business Income	$ 444,000
Local Taxes	$ 44,000

Clearly tourism is a major generator of economic activity at Churchill. Adequate rail service is essential for the continued development of the industry in that region of Manitoba. Demand for rail passenger service to Churchill is expected to increase with the establishment of the proposed national park. Unfortunately, Via Rail recently cancelled its marketing program for Churchill as a tourist destination point. Furthermore, it has not made any of its refurbished cars available for the Churchill route.

THE FUTURE OF THE PORT AS A GRAIN EXPORT PORT

The Port of Churchill has the capacity to handle at least 1,000,000 tonnes of grain on an annual basis. Yet over the past five years, the average volume of grain shipped from the Port was 375.6 thousand tonnes. On the other hand, record amounts of grain are being moved from the Ports of Vancouver, Thunder Bay and Prince Rupert. Furthermore, in November of 1991,the Wheat Board shipped 55,000 tonnes of barley through the American port of Seattle costing grain producers money since grain deliveries to foreign ports do not qualify for Canadian government freight subsidies.

The low volumes of grain shipped to Churchill over the past five years have led to operating losses to the extent that the Port is in a serious financial situation at the present time. Without a shipment of at least 600,000 tonnes of grain this year, the future

viability of the Port will be in doubt.

The number of people employed at the Port has decreased over the past five years. Indeed in the 1991 shipping season, Port authorities had to lay off employees before the shipping season was even over.

Prior to the breakup of what was once the Soviet Union, most of Canada's primary export markets had shifted away from Europe, where Churchill has historically enjoyed an economic advantage, toward the Pacific Rim. However, since the formation of independent states, Canada has signed an agreement with Russia to sell 25 million tonnes of grain over the next five years. The three Baltic republics of Lithuania, Latvia and Estonia have been offered $10 million in credit. They are expected to sign a grain agreement with Canada shortly. The distance from Churchill to the Commonwealth of Independent States is shorter than from Thunder Bay or Vancouver. Furthermore, as the costs of inland transportation and the Great Lakes/St.Lawrence Seaway continue to increase, the Port of Churchill becomes a more attractive alternative. The federal government is using its foreign aid program to pay the ocean transportation to Russia. Given the above opportunities, and the possibility of additional sales the Province of Manitoba cannot understand why significant volumes of grain have not been scheduled to be moved from the Port of Churchill.

A recent Grain Transportation Agency study indicates that grain handling facilities at the West Coast will soon be overtaxed. At the same time Churchill facilities are underutilized. Manitoba is very concerned about the failure of The Canadian Wheat Board to sell adequate amounts of grain through the Port.

The Port of Churchill requires an annual amount of between 700,000 to 1,000,000 tonnes of grain to be viable in the long term.

Presently, boxcars are in short supply and their numbers continue to dwindle. Without sufficient boxcars to move the required amount of grain, under-utilization of the Port's facilities is bound to continue, resulting in operational losses.

CN has indicated that it has an adequate amount of boxcars to last until 1996 based on the assumption that only 250,000 tonnes of grain will be shipped annually to the Port and it does not plan to finance the refurbishing of any boxcars in the near future. Moreover it does not plan to replace any of the boxcars leaving service. If sufficient boxcars are not available and production work on an articulated hopper designed by CN does not commence shortly, Ports Canada may be forced to close the Port of Churchill.

CN claims they must restrict grain shipments to the utilization of boxcars on the Churchill line is the result of the severity of the differential settlement and the resulting weight restrictions on the line. These restrictions have not been applied to cement or petroleum products. The Churchill rail line is constructed over areas of permafrost. This permafrost ranges from isolated and sporadic on the southern portions to continuous on the northern portions. In the early 1980's the track was upgraded from 80 pound to 100 pound rail. In spite of the upgrading, the track has experienced settlement problems due to the formation of "sink holes".

Canadian National Railways has reported an estimate of $100 million to solve the permafrost melting and stabilize the rail bed with improvements to track and structures along the line. A recent study conducted for the Saskatchewan Government claims that $35 million may be closer to the actual cost. A Manitoba engineering firm provided estimates of $42 million.

Without this improvement of the line only limited amounts of grain

will be moved to the Port of Churchill. Manitoba believes that the rail line should be improved as early as possible to accommodate the use of fully loaded hopper cars as well as to service other potential bulk commodity imports and exports.

The unemployment rate for Churchill in 1991 was 27% and according to a spokesperson for Canada Employment and Immigration, without significant grain shipments, the jobless rate will remain high. With less people working in the community, there will be decreased demand for goods and services, a reduction of economic activity in the region and a reduction in tax revenues for the provincial government.

GRAIN DEPENDENT STATUS OF THE HERCHMER SUBDIVISION

Presently the rail line from Gillam to Churchill is classified as a grain dependent branch line. As a result of this designation, CN can include the expenses incurred on this subdivision as part of the total cost of transporting grain. The company is compensated for transporting grain through the freight rates by the grain producers and the federal government. As well, CN receives an extra portion of the federal government Crow Benefit payment under section 56 of the Western Grain Transportation Act because of claimed above average line-related costs for their operation on the Herchmer Subdivision.

The Province of Manitoba is opposed to the designation of the Churchill line as a branch line. It should be classified as a secondary main line instead because it connects the southern prairies to a seaport. The Province of Manitoba believes that the Herchmer Subdivision's status as grain dependent discourages CN from seeking other traffic through the Port of Churchill. Other traffic might reduce the percentage of grain traffic on the Herchmer Subdivision, jeopardizing its status as a grain dependent

line. CN should be compensated for any losses incurred in the operation of the line from general revenue, not grain specific subsidies.

Canadian National Railways has shown very little interest in financing either the upgrading of the Churchill rail line or the production of articulated hopper cars. Without the implementation of one of the above projects, the probability of significant volumes of grain being shipped through the Port of Churchill is low. The Province of Manitoba expects that the federal Government to finance the upgrading of the line so that the economic strength of northern Canada is realized and international trade fostered.

FUTURE PROSPECTS - POTENTIAL OPPORTUNITIES

1. The Future of Re-supply Operations From the Port

Northern Transportation Company Ltd. operates a marine resupply operation from Churchill, serving communities on the west side of Hudson Bay. The tonnage of goods carried from Churchill to the Keewatin area has increased over the past five years and the company expects the demand for their services will increase in the future. The increase in demand for goods from the south may be attributable to an increase in the population in the area. According to Statistics Canada, the population increased by 17% between 1986 and 1991.

A spokesperson for NTCL advises that in spite of the high freight rates CN charges for moving goods from the South, NTCL expects the demand for resupply services to increase in the future.

2. Tourist Development - National Park

A National Park is being planned to increase the number of tourists

and to further develop the industry in the Churchill area. While some tourists travel by air to Churchill, most of the visitors use VIA Rail to get there. Regular rail passenger service is therefore essential for the success and development of the proposed park which is expected to receive widespread publicity and attention.

3. Possibility of Increased Use of the Port of Churchill as a Result of Trading Arrangements Between Manitoba and Russia

Last fall Premier Filmon signed an agreement on economic, environmental and cultural co-operation with the Russian Republic. Among the priorities identified in the agreement are increased trade, northern development and expanded transportation and communication links, including improved air service and possible increased use of the Port of Churchill. Officials from the Premier's office and Russian authorities have held further meetings about importing and exporting commodities through the Port of Churchill. The Russians are anxious to establish two-way trade through Churchill in linkage with Murmansk. They have a fleet of ice-strengthened ships capable of doubling the season of navigation over the Hudson Bay route. This, when joined with the reliance on Canadian grain and the lowest cost service offered by Churchill, provides for significant potential.

4. Development of the Rocket Range

In response to the growing market for launch support services for small satellites, the Churchill Rocket Range is now being considered for reactivation. Indeed, reactivation of the range was identified as a cabinet priority for the Manitoba Government on July 19, 1989. The Province persuaded the federal government to cease dismantling of the range, which is recognized as offering one of the most advantageous rocket launching sites available.

A Churchill based company has been established to perform studies required to begin the design and development phase of the Rocket Range. When completed, it is estimated that the facility will provide 150-300 permanent jobs.

The Province of Manitoba has been working closely with a number of companies expressing interest in the rocket range.

5. Hydro Development and Mining Activity

Over the years, the railway provided critical transportation services for construction of hydro-electric dams in Northern Manitoba and enabled Manitoba to achieve energy security at a reasonable price. To continue to satisfy the power needs of Manitobans and to raise revenues from exporting surplus power, Manitoba Hydro plans on developing additional hydro-electric dams in Northern Manitoba in the future. Presently the Conawapa project is undergoing an environmental review.

With the completion of the hydro transmission line between Gillam and Churchill, mining companies are interested in extending the line to communities in the Keewatin area.

Churchill is a centre for exploration for northern Manitoba and the Northwest Territories. Presently nickel exploration activity is focused along the Churchill line in the Gillam area. Should metal prices improve in the future, additional exploration activity is expected. Rail access will bolster future resource development and exploration in the region.

CONCLUSIONS

The Province of Manitoba supports the broad objectives of the National Transportation Act. A "safe, economic, efficient and

adequate network of viable and effective transportation services making the best use of all available modes of transportation at the lowest total cost" is absolutely necessary for the economic development of Canada. The Act requires that policies be implemented that are consistent with the various provisions of the legislation. However in the five years since it came into force economic development activity at the Port of Churchill and in the Churchill region has been insignificant. Actions have not been consistent with the broad objectives of the Act.

For example, limited amounts of grain have been shipped to the Northern port compared to the other ports, although the cost of shipping grain to Churchill from the Churchill hinterland area is lower than shipping it to the ports of Thunder Bay or Vancouver.

Furthermore section 3(g)(iv) of the Act states that each carrier should carry traffic under fares and conditions that do not discourage the development of export trade in any region of Canada. Section 3(d) also recognizes the significant role transportation plays in regional economic development.

CN's unwillingness to upgrade the Churchill rail line or provide a fleet of articulated hopper cars makes it difficult for Churchill and the Churchill region to fully realize their economic potential and points to the need for a strengthening of the National Transportation Act.

The 1987 Act defines the above objectives as items of public interest and empowers the National Transportation Agency under sections 58 through 63 to investigate complaints that carriers' actions or omissions with respect to rates or conditions of carriage have prejudiced the public interest in this regard. However, section 58 limits such complaints to disputes between shippers and carriers, and appears to restrict the right to ask for

an investigation to a shipper or an organization of shippers. Provincial governments have responsibility for the sustainable economic development of their provinces. Sections 58 and 59 should be amended to permit provincial governments or agencies with responsibilities for economic development to request that the Agency investigate negative consequences for the public interest involving rates and conditions of carriage. The section should permit the Agency to direct the railroad to take action and apply penalties if the carrier fails to do so.

Various economic development projects by governments and private industry are scheduled to be implemented in the near future in the Churchill area. A rail line that is operational is a prerequisite for the successful implementation of these projects. By designating the Churchill line a secondary main line instead of a branch line, CN may provide the service and rates that are favourable for the economic development of the region. Further, compelling CN to aggressively market the line in exchange for subsidies to defray losses would encourage increased traffic and development as well as enhancing potential for the longer term viability of rail operations in the region.

The transportation needs of thousands of northern Manitobans are met by VIA Rail and CN. Their continued service is essential for the economic well-being of the residents of the area and the future development of the tourist industry at Churchill.

The Province of Manitoba recognizes the important role transportation has played and will continue to play in the development of Manitoba, the west and northern Canada. We feel that national transportation policies should be implemented that will be sensitive to the needs and aspirations of the various regions of Canada. It is in this context that this submission is presented, hoping that the proposals advanced will be favourably

considered by the Commission.

Churchill and the northern rail network are essential to serving the regional and national interests with respect to:

- present and future trade
- northern development
- resupply
- health referral
- military and sovereignty consideration
- scientific testing and research
- education and training

Accordingly, the federal government has a duty to eliminate the uncertainty confronting this vast region of Canada and its citizens through a commitment to upgrade the rail line and the port as well as to increase grain exports over the Hudson Bay route. This position has been endorsed by the Western Premiers as well as by the ministers responsible for northern development across Canada.

Appendix C

SAFETY CONCERNS

The deregulation of the transportation industry raised concerns about a decline in safety. The Government of Canada assured Canadians that safety would not be compromised and undertook a number of actions to maintain and enhance safety. In co-operation with the provinces, the National Safety Code provisions were introduced for the trucking industry. The Air Transport Safety Board was restructured.

In the area of the air industry a number of concerns exist. The liberalization of the air industry allowing new firms to be established and carriers freedom to establish new routes across the country resulted in expanded activity at many airports. Increased air traffic created more work for air traffic controllers at these airports, but the number of air traffic controllers did not increase proportionately. Despite federal government promises, the problem has not been rectified. Under a program of fiscal restraint coinciding with the new Act, the federal government reduced the number of air inspectors who monitor air carriers and their airplanes to enforce maintenance and repair regulations specified by Transport Canda and the manufacturer. More aircraft and air carriers should require more inspectors.

On the trucking side, a CCMTA Task Force is currently reviewing the adequacy of the safety fitness entry test under the MVTA, and the Review Commission is referred to this work.

APPENDIX D

ECONOMIC DEVELOPMENT CONCERNS

Table D1 provides estimates of the direct and indirect transportation costs as a percentage of their delivery prices for sixty-six commodity groups. The data for each commodity group is divided into domestic sales and exports. Transportation costs for exports are generally a higher percentage of delivery price for exports because the distance to market is farther. Direct transportation costs represent the costs that the firms selling a commodity would pay for its final transportation, while indirect costs are transport costs included in the cost of material inputs used in the commodity's production.

For low valued bulk commodities, the percentages range from 10 to 40 percent of the selling price. For other products especially manufactured goods, the percentage varies from 2 to 7 percent of the selling price. While the latter numbers appear small, they are the same magnitude as the business's profit margin as a percentage of sales. A slight change in transport costs can have a significant affect on a firm's financial viability.

TABLE D1
DIRECT AND INDIRECT TRANSPORTATION COSTS IN COMMODITY GROUPS, 1986

COMMODITY GROUP	AS A PERCENTAGE OF DELIVERY PRICE		
	TOTAL OUTPUT	DOMESTIC SALES	EXPORTS
Grains	18.89	12.24	27.82
Live Animals	2.63	2.41	16.59
Other Agricultural Products	13.26	12.40	21.08
Forestry Products	12.18	11.58	29.62
Fish Landings	2.36	2.16	2.77
Hunting & Trapping Products	6.10	4.28	6.20
Iron Ores/Concentrates	20.28	19.55	20.55
Other Metal. Ores/Concentrates	7.13	6.38	7.73
Coal	39.25	11.83	44.82
Crude Mineral Oils	1.13	1.77	0.00
Non-Metallic Minerals	27.52	25.6	29.39
Meat Products	3.92	3.79	4.92
Dairy Products	2.42	2.34	5.08
Fish Products	1.92	3.90	1.56
Fruits & Vegetables Preparation	4.03	3.99	4.36
Feeds	8.26	7.54	16.45
Flour, Wheat, Meal & Other Cereal	4.30	4.28	4.42
Breakfast Cereal & Bakery Prod.	2.34	2.31	3.01
Sugar	5.40	3.69	10.26
Misc. Food Products	5.46	5.38	6.15
Soft Drinks	2.72	2.70	4.89
Alcoholic Beverages	3.78	3.38	5.68
Tobacco Processed Unmanufactured	4.09	3.25	6.87
Cigarettes & Tobacco Mfg.	1.47	1.46	1.95
Tires & Tubes	3.55	3.59	3.50
Other Rubber Products	2.73	2.64	3.26

Table D1 (continued)

DIRECT AND INDIRECT TRANSPORTATION COSTS IN COMMODITY GROUPS, 1986

COMMODITY GROUP	AS A PERCENTAGE OF DELIVERY PRICE		
	TOTAL OUTPUT	DOMESTIC SALES	EXPORTS
Plastic Fabricated Products	3.71	3.23	6.05
Leather & Leather Products	2.17	2.11	2.73
Yarns & Man Made Fibres	2.14	1.85	3.29
Fabrics	1.87	1.75	3.88
Other Textile Products	3.74	3.31	7.70
Hosiery & Knitted Wear	2.45	2.45	2.59
Clothing & Accessories	1.34	1.06	4.72
Lumber & Timber	16.97	15.45	17.56
Veneer & Plywood	8.36	8.24	8.74
Other Wood Fabricated Material	10.04	10.59	7.47
Furniture & Fixtures	2.24	2.09	2.89
Pulp	7.13	5.35	7.47
Newsprint & Other Paper Stock	15.81	13.13	17.52
Paper Products	8.58	8.04	14.00
Printing & Publishing	4.29	4.04	7.12
Iron & Steel Products	7.97	7.89	8.30
Aluminum Products	3.16	2.73	3.45
Copper & Copper Alloy Products	2.66	3.12	2.23
Nickel Products	2.96	1.48	2.96
Other Non Ferrous Metal Products	7.24	6.60	7.38
Boilers, Tankers & Plates	3.16	3.26	2.65
Fabricated Structural Metal Prod.	3.17	2.93	4.56
Other Metal Fabricated Products	6.37	6.29	6.85
Agricultural Machinery	1.67	2.00	1.41
Other Industrial Machinery	3.90	3.55	4.28
Motor Vehicles	1.93	1.05	2.04
Motor Vehicle Parts	2.57	1.55	2.85

Table D1 (continued)

DIRECT AND INDIRECT TRANSPORTATION COSTS IN COMMODITY GROUPS, 1986

COMMODITY GROUP	AS A PERCENTAGE OF DELIVERY PRICE		
	TOTAL OUTPUT	DOMESTIC SALES	EXPORTS
Other Transport Equipment	2.15	2.25	2.07
Appliances & Receivers, Household	1.27	1.13	1.98
Other Electrical Products	2.96	2.82	3.22
Cement & Concrete Products	7.93	7.37	13.85
Other Non-metallic Mineral Products	9.53	9.83	8.31
Gasoline & Fuel Oil	6.88	7.00	5.85
Other Petroleum & Coal Products	9.40	8.19	13.59
Industrial Chemicals	17.89	16.67	20.52
Fertilizers	20.14	8.01	40.59
Pharmaceutical	2.27	2.31	1.60
Other Chemical Products	9.39	9.46	8.73
Scientific Equipment	1.95	1.65	2.45
Other Manufactured Products	2.71	2.97	2.08

Source: Vivian Wei, Transportation Costs in the Production and Distribution of Canadian Goods, Policy and Coordination, Transport Canada, Ottawa, Ontario, March 1991, pp. 24-5.

Table D2 illustrates how far Manitoba is from the largest North American population centres and major ocean ports where low cost water transport is available.

These long distances to other major North American centres are barriers to trade and higher incomes for two reasons. First, transport costs to overcome distance increase the overall cost of supplying these additional markets and reduce sales. Second, the same costs increase the prices of imported items and inflate the cost of production in Manitoba. Manitoba needs cost-efficient

suppliers of transport services to maximize its potential wealth through the export and import of goods and services markets.

The main areas of economic activity in Manitoba are far from seaport and navigable rivers do not connect economic centres. This is unfortunate because water transport is the least expensive mode for moving large volumes of freight. Although Manitoba has the seaport of Churchill, the only land link to this Port, the CN railway, follows a longer, more costly, indirect route through central Saskatchewan. The rail distance from Winnipeg to Churchill is approximately 1500 kilometres. The rail line also crosses the Canadian Shield where rocky terrain, permafrost marshes, lakes, and rivers increase infrastructure costs. The Port of Thunder Bay, providing access to the Great Lakes St. Lawrence System, is about 700 kilometres by rail or road from Winnipeg. The Mississippi New Orleans system is also accessible at Minneapolis about 700 kilometres away by rail or road.

The high cost of air transportation leaves Manitoba shippers dependent on land surface transport. Minimizing their freight costs is important to keep them competitive in both Manitoba and export markets. The Province provides the highway infrastructure for the motor carrier industry and regulates competition and rates. Because competition among rail carriers has not been effective in minimizing some freight rates, the federal government regulates those rail freight rates, and the Province actively participates in the regulatory process to protect Manitoba shippers against excessive charges.

Farm trucks transport grain, Manitoba's major export, to delivery points on the rail network from which the railroads collect and consolidate loaded grain cars into trains destined for export position. Rail transport has been the principal means of moving Manitoba export grain to seaport for a century. However, the land

distance to seaport for Canada is the longest among international exporters of grain. The Province of Manitoba actively participates in the rate setting mechanism for grain to keep the rates fair to both shipper and carrier, and to maintain access to foreign markets for Manitoba grain.

Table D2

Approximate Distances from Winnipeg
to North American Population Centres

Centre	Road Distance in Kilometres
Boston, Massachusetts	2808
Calgary, Alberta	1328
Dallas, Texas	2050
Denver, Colorado	1662
Detroit, Michigan	1749
Edmonton, Alberta	1307
Los Angeles, California	3125
Mexico City, Mexico	3914
Minneapolis, Minnesota	698
Montreal, Quebec	2306
New York, New York	2613
Toronto, Ontario	2087
Vancouver, British Columbia	2372